

FOR THE CASE OF
Elevator & Amusement Device Safety Board
Meeting

TRANSCRIPT OF
Meeting

July 26, 2016

Stone & George

COURT REPORTING

2020 Fieldstone Pkwy

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<p style="text-align: right;">Page 1</p> <p>1. STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT 2. WORKER'S COMPENSATION DIVISION 3. 4. 5. 6. 7. 8. 9. TRANSCRIPT OF PROCEEDINGS 10. OF 11. ELEVATOR & AMUSEMENT DEVICE SAFETY BOARD 12. July 26, 2016 13. BEFORE: Robbie Fox, Chairman 14. 15. 16. 17. 18. 19. 20. 21. 22. ----- 23. DOMINIQUE A. DUBOIS, LCR# 686 STONE & GEORGE COURT REPORTING 24. 2020 Fieldstone Parkway Suite 900 - PMB 234 25. Franklin, Tennessee 37069 (615) 221-1089</p>	<p style="text-align: right;">Page 3</p> <p>1. A P P E A R A N C E S 2. 3. Robbie Fox, Chairman 4. Lewis Moorner, Jr., Public at Large Representative 5. David A. Hale, Tennessee Fair Association Representative 6. 7. Larry R. Moore, II, Owner and Lessee Representative 8. Kelly O'Connor, Public at Large Representative 9. Chris Farmer, Assistant Chief Elevator Inspector 10. Kim Jefferson, Esq., Administrator 11. Dan Bailey, Esq., Legal Counsel 12. Carlene T. Bennett, Board Secretary 13. Anita Rhodes, State of Tennessee 14. Chris Cannon, Department of Labor and Workforce Development 15. Leanne Durm, Department of labor and Workforce Development. 16. Jan Dower, Commissioner's Office 17. Catherine Hare, Seventh Government Operations Committee 18. Mary Audrey Powers, Navitat Canopy Adventures 19. Rodney Todd, Southern Region Boy Scouts 20. Mike Barker, Professional Ropes Course Association 21. James Keifer, Professional Ropes Course Association 22. Chance Deason, General Counsel. 23. Brian Polston, EBL Ziplines 24. Steve Gustafson, EBL Ziplines. 25.</p>
<p style="text-align: right;">Page 2</p> <p>1. 2. The above-styled cause came on for 3. hearing on this the 26th day of July, 2016, before 4. The Elevator & Amusement Device Safety Board at 5. 220 French Landing Drive, Tennessee Room, 1st 6. Floor, Nashville, Tennessee, when and where the 7. following proceedings were had, to wit: 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25.</p>	<p style="text-align: right;">Page 4</p> <p>1. Scott Jordan, Professional Ropes Course Association 2. Tom Andrews, Pro Image Adventures and Professional Ropes Course Association 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25.</p>

<p style="text-align: right;">Page 5</p> <p>1. AGENDA</p> <p>2. I. Call Meeting to Order</p> <p>3. II. Introductions</p> <p>4. III. Pledge</p> <p>5. IV. Announcements</p> <p>6.</p> <p>7. V. Elevator Unit's Report</p> <p>8. VI. Amusement Device Unit's Report</p> <p>9. * Consider Department's proposed fee structure/Board's recommendation.</p> <p>10. VII. Old Business</p> <p>11. * 16-01</p> <p>12. VIII. New Business</p> <p>13. * None</p> <p>14. IX. Discussion Items:</p> <p>15. * Rule update on LULA lifts.</p> <p>16. X. Announcement of Next Meeting - The next regularly scheduled meeting of the Elevator & Amusement Device Safety Board meeting will be held in the first floor TOSHA Hearing Room at 9:00 a.m. (CT) on Tuesday, September 13, 2016 at the State of Tennessee, Department of Labor and Workforce Development building, located at 220 French Landing Drive, Nashville, Tennessee.</p> <p>21. XI. Adjournment</p> <p>22.</p> <p>23.</p> <p>24.</p> <p>25.</p>	<p style="text-align: right;">Page 7</p> <p>1. MR. FARMER: I'm Chris Farmer. I'm</p> <p>2. inspector supervisor for elevators.</p> <p>3. MS. O'CONNOR: Kelly O'Connor. I'm a</p> <p>4. board member representing public at large.</p> <p>5. MR. HALE: David Hale. Board member.</p> <p>6. MR. MOORER: Lewis Moorers, board</p> <p>7. member. Member at large.</p> <p>8. MR. RADER: Mitch Rader. Board</p> <p>9. member. Insurance company representative.</p> <p>10. MR. MOORE: Larry Moore. Board</p> <p>11. member. Owner and lessee representative.</p> <p>12. MS. JEFFERSON: Kim Jefferson.</p> <p>13. Administrator for Workplace Regulation and Safety</p> <p>14. Compliance Division.</p> <p>15. MR. BAILEY: Dan Bailey. Legal</p> <p>16. counsel to the Commission.</p> <p>17. MR. TODD: Rodney Todd. Southern</p> <p>18. Region Boy Scouts.</p> <p>19. MR. BARKER: Mike Barker. I'm</p> <p>20. president of the Professional Ropes Course</p> <p>21. Association.</p> <p>22. MR. KEIFER: James Keifer. Member of</p> <p>23. the Board of Directors, Professional Ropes Course</p> <p>24. Association.</p> <p>25. MR. DEASON: Chance Deason. I'm</p>
<p style="text-align: right;">Page 6</p> <p>1. * * * * *</p> <p>2. PROCEEDINGS</p> <p>3. CHAIRMAN FOX: We will call the</p> <p>4. Elevator and Amusement Device Safety Board,</p> <p>5. July 26, 2016.</p> <p>6. First thing I want to do is apologize</p> <p>7. to those of you who came last time and then we had</p> <p>8. to end up canceling the meeting. I would have</p> <p>9. made the number for the quorum. And I had a</p> <p>10. family emergency, and I had to leave. I hope you</p> <p>11. understand. I know some of you flew in here,</p> <p>12. spent some money.</p> <p>13. And I -- and again, I apologize, but</p> <p>14. it was my mother-in-law. I've only had her for 45</p> <p>15. years and certainly wanted to be there in case</p> <p>16. something happened. And a lot of you have asked</p> <p>17. about her. She spent 28 days in the hospital and</p> <p>18. she's home now. And thank you for your prayers.</p> <p>19. Introductions. If we could, I'll</p> <p>20. start with Ms. Carlene and we'll go around the</p> <p>21. room. If everybody would give their name, please,</p> <p>22. and what your -- who you're associated with.</p> <p>23. MS. BENNETT: I'm Carlene Bennett.</p> <p>24. Board Secretary. Tennessee Department of Labor and</p> <p>25. Workforce Development.</p>	<p style="text-align: right;">Page 8</p> <p>1. general counsel for this department.</p> <p>2. MS. DOWER: Jan Dower.</p> <p>3. Commissioner's office.</p> <p>4. MS. DURM: Leanne Durm. Legislative</p> <p>5. liaison for the Department.</p> <p>6. MR. CANNON: I'm Chris Cannon.</p> <p>7. Director of communications for the departments.</p> <p>8. MS. HARE: Catherine Hare (phonetic).</p> <p>9. Research analyst for the Seventh Government</p> <p>10. Operations Committee.</p> <p>11. MS. POWERS: Mary Audrey Powers.</p> <p>12. Navitat Canopy Adventures.</p> <p>13. MR. POLSTON: Brian Polston. EBL.</p> <p>14. MR. GUSTAFSON: Steve Gustafson.</p> <p>15. Owner of EBL.</p> <p>16. DR. JORDAN: Dr. Scott Jordan.</p> <p>17. Treasurer of the Professional Ropes Course</p> <p>18. Association.</p> <p>19. MR. ANDREWS: Tom Andrews. Owner of</p> <p>20. Pro Image Adventures and an accredited member with</p> <p>21. Professional Ropes Course Association.</p> <p>22. MS. RHODES: Anita Rhodes.</p> <p>23. Department of Labor and Workforce Development.</p> <p>24. CHAIRMAN FOX: Okay. Thank you all</p> <p>25. very much. If we could, let's stand and pledge.</p>

<p style="text-align: right;">Page 9</p> <p>1. And David, will you do --</p> <p>2. MR. HALE: Flag.</p> <p>3. CHAIRMAN FOX: Wait just a second.</p> <p>4. Don't run off. We'll take care of this.</p> <p>5. MR. FARMER: Technology's awesome.</p> <p>6. MR. RADER: When it works.</p> <p>7. MR. FARMER: When it works. Yeah.</p> <p>8. You really miss it when it don't.</p> <p>9. MR. MOORE: Lewis has the flag on his</p> <p>10. jacket.</p> <p>11. MR. RADER: Yeah, Lewis has the flag</p> <p>12. on his lapel.</p> <p>13. CHAIRMAN FOX: Sir, we'll have it in</p> <p>14. just one second. It's slow coming in here.</p> <p>15. MR. BAILEY: He tends to be</p> <p>16. impatient.</p> <p>17. MR. HALE: What are you going to do</p> <p>18. with the --</p> <p>19. CHAIRMAN FOX: You got to improvise.</p> <p>20. MR. HALE: Ladies and gentlemen,</p> <p>21. please address the flag.</p> <p>22. (Pledge of Allegiance recited by</p> <p>23. all.)</p> <p>24. CHAIRMAN FOX: Thank you. In my</p> <p>25. former life, I could have been a Boy Scout and</p>	<p style="text-align: right;">Page 11</p> <p>1. training the 1st of April in Gatlinburg and</p> <p>2. everyone got trained and passed their online test.</p> <p>3. So they're credentials are good for the year. We</p> <p>4. have been attending a communication and</p> <p>5. accountability training over the last couple of</p> <p>6. weeks.</p> <p>7. I do have some numbers. Through</p> <p>8. yesterday, we have done 12,329 inspections so far</p> <p>9. this calendar year compared to 12,534, so we're a</p> <p>10. little down on the numbers on that. We have done</p> <p>11. 234 new acceptances versus 242 last year. And we</p> <p>12. have got 334 new applications this year compared</p> <p>13. to 265 the last year. So we're definitely, as you</p> <p>14. can see through Nashville, we're growing. We've</p> <p>15. got a lot of permits, a lot of elevators.</p> <p>16. So we do have 27 total inspectors,</p> <p>17. including myself. And we are one short, and we'll</p> <p>18. probably be filling it over the next couple</p> <p>19. months. So --</p> <p>20. CHAIRMAN FOX: Okay.</p> <p>21. MR. FARMER: That's what I got.</p> <p>22. CHAIRMAN FOX: Okay. Item Number</p> <p>23. Seven, the Amusement Device Unit's report.</p> <p>24. Ms. Jefferson, recognize you, please.</p> <p>25. MS. JEFFERSON: All right. Good</p>
<p style="text-align: right;">Page 10</p> <p>1. improvised. You know.</p> <p>2. MR. HALE: Or a marine.</p> <p>3. CHAIRMAN FOX: Or a marine. Okay.</p> <p>4. The safety announcement says, in the event of an</p> <p>5. emergency or natural disaster, security personnel</p> <p>6. will take attendees to a safe place in the building</p> <p>7. or direct them to exit the building on the</p> <p>8. Rosa Parks side of the building. And that would be</p> <p>9. which way? That way. Okay.</p> <p>10. All right. Item Number six, Elevator</p> <p>11. Unit's Report. Mr. Chris Farmer.</p> <p>12. MR. FARMER: All right. We had a</p> <p>13. busy couple of months. We did hire four new</p> <p>14. inspectors March 16, which kept us fully staffed for</p> <p>15. about a month and a half till one of them left to go</p> <p>16. back to where he came from for, of course, more</p> <p>17. money.</p> <p>18. We hired Steve Millsaps. He's in the</p> <p>19. Murfreesboro area. William Brooks, which is in</p> <p>20. East Tennessee, Knoxville area. And we did hire</p> <p>21. our first elevator -- female elevator inspector</p> <p>22. here in Nashville, Laralyn Drew. She's come in</p> <p>23. with a lot of experience and we're glad to have</p> <p>24. her.</p> <p>25. We had our in-house training and QEI</p>	<p style="text-align: right;">Page 12</p> <p>1. morning. Good morning everyone. Good morning,</p> <p>2. board members. First, I'd like to recognize the</p> <p>3. Chair, Chairman Fox as well as the representatives</p> <p>4. from the Department and the general public. And</p> <p>5. we're just glad to have you all here. We're glad</p> <p>6. you're able to make this meeting.</p> <p>7. My name's Kim Jefferson. I'm the</p> <p>8. Administrator for Workplace Regulations and</p> <p>9. Compliance division, and I come before the Board</p> <p>10. because we'd like to request your support so that</p> <p>11. we can modify the current amusement device</p> <p>12. structure, as well as the Department rules. And</p> <p>13. so we're going to move on to the next slide.</p> <p>14. Can you all see this or do we need to</p> <p>15. turn the lights off? Are you all okay with that?</p> <p>16. Board members? Okay. Great. Okay. And let me</p> <p>17. just -- let me do this. I'm going to turn off one</p> <p>18. light. See if this is -- is that better?</p> <p>19. UNIDENTIFIED SPEAKER: Yes. Yes.</p> <p>20. MS. JEFFERSON: I'll steal some</p> <p>21. light. Okay. Great. Okay.</p> <p>22. We come before the Board, again,</p> <p>23. because we feel as though the current fee</p> <p>24. structure does not provide what we need in order</p> <p>25. to administer -- properly administer this program.</p>

<p style="text-align: right;">Page 13</p> <p>1. Our Commissioner, Burns Phillips, he's adamant 2. about us having the proper tools, the proper 3. equipment, the resources that we need to do our 4. job. Unfortunately, the current fee structure 5. does not allow that. And so that's why I'm here. 6. Safety is our primary focus. Okay? 7. That's the main goal. And we're going to the next 8. slide. We're going to talk about each one of 9. those items. 10. So the question is, why is there a 11. need to revise the current rules and why do we 12. want to create a new fee structure? Well, it's 13. simple, because the current fee structure is 14. ambiguous, it's hard to understand, it's 15. confusing. It's difficult for us to interpret at 16. times, and we know it's difficult for the public 17. to interpret. We need to simplify that process. 18. We need to streamline it. 19. Right now, we have two fees. We want 20. to streamline so that we'll have one fee instead 21. of two fees. The current fee structure is 22. insufficient, as I've said before, to fund the 23. Amusement Device. We received an unfunded 24. mandate, which I'll talk about in just a moment. 25. But we're required to become self-sufficient.</p>	<p style="text-align: right;">Page 15</p> <p>1. they were collecting fees, inspecting, just doing 2. everything that you would have to do -- that you 3. would normally in the office. They had those 4. duties, as well as the inspection duties. And 5. because of that, the program was unsuccessful. 6. Now, if you take a look at the 7. program facts, 54 permits were issued during 8. time -- the last year we had inspectors, 54 9. permits were issued during that fiscal year, and 10. we collected \$58,525. 11. In February 2015, we decided to take 12. a different approach, because this approach wasn't 13. working. And so we decided to actually polish 14. our -- an administrative process. We didn't have 15. one before, so we implemented an administrative 16. process and we polished the process. That's what 17. we're -- we've been continuously trying to do 18. throughout the months and the last year. 19. So from February 2000 -- what, 20. February 2014 -- I'm sorry. February 2015 21. through, say, June the 30th, 2015 -- I forget it 22. was only five months -- during those five months, 23. we were able to almost double the number of 24. permits that were issued having the administrative 25. process only, not even having inspectors. So at</p>
<p style="text-align: right;">Page 14</p> <p>1. Okay? 2. We're going to go to the next slide. 3. Okay. Let's look at our program history, because 4. before we understand where we're trying to go, we 5. have to understand the history of the program. 6. This law, the Amusement Device law was passed 7. March the 27th, 2008. It became effective on 8. January the 1st, 2009. 9. Now, the reason that the law was 10. created was to protect the public from hazards 11. associated with the amusement device industry, 12. dangers associated with the industry. And also, 13. there's a need to educate owners and operators so 14. that they may become compliant with the amusement 15. device laws. 16. Again, this is an unfunded mandate, 17. but even though it's unfunded, previously due to a 18. public outcry, the need to have inspectors, two 19. inspectors were hired even though moneys were not 20. there. 21. There was no administrative process 22. in place at that time, and so you found -- we 23. found that inspectors were not only inspecting the 24. cases but they were actually distributing permit 25. applications, they were gathering the information,</p>	<p style="text-align: right;">Page 16</p> <p>1. that point, we issued 104 permits compared to 2. previous -- the previous 54 permits, and we 3. collected \$83,600 in comparison to the \$58,525. 4. And again, that was done from February 2015 to 5. June the 30th, 2015; five months. 6. Now, this last fiscal year was just 7. ended on June the 30th. And that's from June the 8. 3rd, because this was prepared for the last board 9. meeting. But through June the 3rd -- June the 10. 30th, rather, the past fiscal year, we actually 11. issued 250 permits and we collected \$152,450. So 12. you see the numbers have tripled from that first 13. year, the last year that we had inspectors, the 14. numbers have tripled. 15. And so that's pretty much where we 16. are and what we've been able to do 17. administratively. And I'd like to recognize the 18. two people in the unit, because it's only three of 19. us, who handle the Amusement Device Unit. The 20. first person on the front line is Carlene Bennett. 21. Carlene, if you'll stand. I know it's dark in 22. here, but -- Carlene Bennett. 23. She actually -- she's on the front 24. line, so she answers all the inquiries about 25. amusement devices. She sends noncompliance</p>

<p style="text-align: right;">Page 17</p> <p>1. letters to our customers to let them know that</p> <p>2. you're not in compliance with the law, and then</p> <p>3. she explains what they need to do in order to</p> <p>4. become compliant. In the event that we have to</p> <p>5. refer the case to the local authorities because</p> <p>6. they won't comply with the law, she prepares that</p> <p>7. paperwork. She keeps track of everything that we</p> <p>8. do. So she's on the front line.</p> <p>9. And then we have Anita Rhodes.</p> <p>10. Anita, if you will stand. Anita is responsible</p> <p>11. for reviewing the file after Carlene finishes her</p> <p>12. part. Anita reviews the file and then she</p> <p>13. actually processes the payments. Okay? And she</p> <p>14. enters and scans everything within our system.</p> <p>15. And of course, I prepare the</p> <p>16. processes for us so that we'll have proper</p> <p>17. processes in place so that we can do what we need</p> <p>18. to do to keep the people and the public and</p> <p>19. visitors safe in Tennessee.</p> <p>20. So that's pretty much where we are as</p> <p>21. far as our facts are concerned. We do have more</p> <p>22. facts on the next slide. The Department has been</p> <p>23. successful in obtaining non-recurring funds in the</p> <p>24. amount of \$489,600. However, those funds are not</p> <p>25. guaranteed beyond fiscal year '17, '18. So in</p>	<p style="text-align: right;">Page 19</p> <p>1. MS. JEFFERSON: Right. Okay. And</p> <p>2. I'll explain that in just a little bit.</p> <p>3. Now, with these funds, the Department</p> <p>4. will hire one manager, because right now, I'm</p> <p>5. serving as the manager along with all the other</p> <p>6. programs. This is just one program that we</p> <p>7. oversee in the Workplace Regulations and</p> <p>8. Compliance Division. So we'll hire one manager to</p> <p>9. do this. We'll have one administrative support</p> <p>10. personnel to assist Carlene, and we'll have three</p> <p>11. safety consultants to assist the Amusement Device</p> <p>12. Unit.</p> <p>13. Those safety consultants will be</p> <p>14. placed throughout the state. We'll have one in</p> <p>15. each grand division, and those people will provide</p> <p>16. oversight to third-party inspectors that will</p> <p>17. continue to service the entire state, because, of</p> <p>18. course, three people are not sufficient to inspect</p> <p>19. all of the amusement devices throughout the state</p> <p>20. of Tennessee.</p> <p>21. CHAIRMAN FOX: Ms. Jefferson, may I</p> <p>22. ask a question, please?</p> <p>23. MS. JEFFERSON: Sure.</p> <p>24. CHAIRMAN FOX: Will these safety</p> <p>25. consultants be certified by NAARSO or AIMS to be</p>
<p style="text-align: right;">Page 18</p> <p>1. other words, they're going to last for two years</p> <p>2. and after that, we're pretty much on our own. So</p> <p>3. we --</p> <p>4. MR. RADER: Kim, where does that</p> <p>5. money come from?</p> <p>6. MS. JEFFERSON: That money comes from</p> <p>7. the General Fund. Because of -- it was a</p> <p>8. legislative appropriation.</p> <p>9. MR. RADER: Gotcha.</p> <p>10. MS. JEFFERSON: Okay? So that money</p> <p>11. comes from -- I'm sorry. Is that right? Leann's</p> <p>12. here so she can explain. Legislative appropriation.</p> <p>13. That's going to be a part of our budget. I know we</p> <p>14. tried to approach it two different ways, and that's</p> <p>15. why I was going back and forth, because we tried to</p> <p>16. obtain legislative appropriation or -- through</p> <p>17. legislation, I should say.</p> <p>18. MS. DURM: It was in the Governor's</p> <p>19. budget, the legislation -- the legislature.</p> <p>20. MR. RADER: So that's what was</p> <p>21. recently added based on us trying to hire three</p> <p>22. inspectors from our previous meetings.</p> <p>23. MS. DURM: That's correct.</p> <p>24. MR. RADER: Correct?</p> <p>25. MS. DURM: That's correct.</p>	<p style="text-align: right;">Page 20</p> <p>1. inspectors?</p> <p>2. MS. JEFFERSON: Well, eventually, but</p> <p>3. we had a difficult time before, trying to find</p> <p>4. people who were NAARSO and AIMS certified when</p> <p>5. hiring. So we won't be requiring them to have that</p> <p>6. when they're hired. However, that can come -- the</p> <p>7. goal is to make sure we have sufficient funding to</p> <p>8. keep them, because we only have funding two years.</p> <p>9. So if we're not successful, they won't be here past</p> <p>10. two years anyway.</p> <p>11. But our goal would be for them to</p> <p>12. become certified. But they wouldn't necessarily</p> <p>13. be required to service the entire state, because</p> <p>14. three people are not enough to service the entire</p> <p>15. state.</p> <p>16. CHAIRMAN FOX: Ma'am, I think at our</p> <p>17. last discussion, we didn't ask for them to inspect</p> <p>18. all the rides. The one thing that we did ask for</p> <p>19. was someone to come in as an unbiased party to</p> <p>20. review any accident that may have happened. And</p> <p>21. with that, I think -- and we also discussed that</p> <p>22. those folks would eventually have to be NAARSO</p> <p>23. and/or AIMS certified, either NAARSO level one, two,</p> <p>24. or three and that they would have to have those</p> <p>25. certifications.</p>

<p style="text-align: right;">Page 21</p> <p>1. And we also discussed the fact that</p> <p>2. we understood that you couldn't hire them off the</p> <p>3. street maybe with that certification, but that</p> <p>4. they would eventually get that. Similar to</p> <p>5. Mr. Farmer's elevator inspectors, they don't come</p> <p>6. in with all the certifications normally. But will</p> <p>7. we get those inspectors is where I'm ultimately</p> <p>8. headed?</p> <p>9. MS. JEFFERSON: Not inspectors.</p> <p>10. There will be safety consultants. And we will</p> <p>11. eventually try to certify them.</p> <p>12. CHAIRMAN FOX: Can you give me an --</p> <p>13. MS. JEFFERSON: Again, it goes back</p> <p>14. to the money, because if the money's not there, they</p> <p>15. may not be here long enough for us to certify. But</p> <p>16. yes, we will look into them becoming certified. I</p> <p>17. have no problem with that, looking into them</p> <p>18. becoming certified.</p> <p>19. CHAIRMAN FOX: Ma'am, that's been the</p> <p>20. premise of this whole conversation about having the</p> <p>21. inspectors or managers and support personnel and</p> <p>22. inspectors here to go out when there was an accident</p> <p>23. and review that and get a ruling. However, if they</p> <p>24. don't have the NAARSO certification or ACC or PRCA</p> <p>25. or whatever certification it is, I would be</p>	<p style="text-align: right;">Page 23</p> <p>1. MR. RADER: So the money's there.</p> <p>2. We're just waiting on approval from DHS?</p> <p>3. MS. JEFFERSON: Department of Human</p> <p>4. Services -- Human Resources, rather. Yes. The</p> <p>5. money's there. The money's there. It's not the</p> <p>6. money. But we have to -- in order to hire</p> <p>7. someone -- in order to create a position, a safety</p> <p>8. consultant position, you have to attain approval</p> <p>9. from the Department of Human Resources. We just</p> <p>10. can't --</p> <p>11. CHAIRMAN FOX: We understand that,</p> <p>12. ma'am.</p> <p>13. MS. JEFFERSON: Right.</p> <p>14. CHAIRMAN FOX: I mean, we're -- we've</p> <p>15. been involved in those sort of the things before.</p> <p>16. We understand that, but how long does the process</p> <p>17. take?</p> <p>18. MS. JEFFERSON: Well, I talked with</p> <p>19. representatives from our department earlier this</p> <p>20. week, and we're just -- I mean, I'll just have to go</p> <p>21. back and talk with them just to find out where we</p> <p>22. are in the process. I'm not really sure if it's on</p> <p>23. the final -- if it's final approval, if it's in</p> <p>24. intermediate approval. But it has to go through</p> <p>25. various approvals before we can do what we need to</p>
<p style="text-align: right;">Page 22</p> <p>1. hard-pressed to understand how they could do that.</p> <p>2. MS. JEFFERSON: Well, they won't have</p> <p>3. it when they are initially hired, because again,</p> <p>4. that goes back to the difficulty that we had.</p> <p>5. That's why we ended up using -- one of the reasons</p> <p>6. we ended up using third-party inspectors because it</p> <p>7. was very difficult to find folks on the outset with</p> <p>8. certification.</p> <p>9. But I'm not -- I understand what</p> <p>10. you're saying and hopefully, we will be able to</p> <p>11. get them certified, but we have to hire them first</p> <p>12. and then we will look at getting them certified.</p> <p>13. CHAIRMAN FOX: Well, that brings me</p> <p>14. to my next question: Where are we in the hiring</p> <p>15. process, if I may ask that now?</p> <p>16. MS. JEFFERSON: We're waiting on</p> <p>17. the -- well, the Department of Human Resources. We</p> <p>18. have to wait on them to actually -- we submitted job</p> <p>19. classifications to them for approval, and so we're</p> <p>20. waiting for them to approve those job</p> <p>21. classifications. We can't do anything until we hear</p> <p>22. back from our Department of Human Resources. So</p> <p>23. actually, we're waiting for them to give us</p> <p>24. approval. Once they approve those positions, then</p> <p>25. we'll be hiring.</p>	<p style="text-align: right;">Page 24</p> <p>1. do.</p> <p>2. CHAIRMAN FOX: I understand that.</p> <p>3. MS. JEFFERSON: Okay.</p> <p>4. CHAIRMAN FOX: Is there anything we</p> <p>5. can do to help with that process?</p> <p>6. MS. JEFFERSON: No. Not that</p> <p>7. process. We just have to wait for them to give us</p> <p>8. approval. Okay?</p> <p>9. CHAIRMAN FOX: Okay.</p> <p>10. MR. FARMER: Ready?</p> <p>11. MS. JEFFERSON: Yes. Okay. And so</p> <p>12. here are some of the purposes of the proposed fees.</p> <p>13. Number one is to level the playing field. We want</p> <p>14. to encourage fair competition in the amusement</p> <p>15. device industry. We have situations now where some</p> <p>16. people are compliant, some companies are compliant,</p> <p>17. some companies are not compliant. And as you can</p> <p>18. understand, that does cause heartburn, because</p> <p>19. people call us all the time and say, well, why</p> <p>20. should I comply with the law if the next company's</p> <p>21. not complying. So that's the number one concern.</p> <p>22. We want to provide funding. We want</p> <p>23. to hire, and we want to maintain our staff,</p> <p>24. because again, the funding we received is</p> <p>25. non-recurring, which means that it's only good for</p>

<p style="text-align: right;">Page 25</p> <p>1. two years. So if we don't develop some type of</p> <p>2. process so that we can become self-sufficient,</p> <p>3. then we won't have any employees. We'll be back</p> <p>4. to Carlene, myself, and Anita.</p> <p>5. We want to assist the Amusement</p> <p>6. Device Unit to become self-sufficient. We want to</p> <p>7. educate -- continue to educate, because that's</p> <p>8. what we do. Every time through the telephone,</p> <p>9. every time we send literature out, we're educating</p> <p>10. the public as to compliance and non-compliance and</p> <p>11. statutory compliance requirements. We perform</p> <p>12. research. As I said, Carlene mainly does that on</p> <p>13. the front end.</p> <p>14. We send noncompliance letters, cease</p> <p>15. and desist letters. We provide and gather</p> <p>16. necessary paperwork for companies to obtain annual</p> <p>17. permits and to become compliant with the law. We</p> <p>18. verify third-party inspectors are certified. And</p> <p>19. that's a process that Carlene -- every time we</p> <p>20. receive an inspection report, she has to contact</p> <p>21. the certifying agency to ensure that that person</p> <p>22. is properly certified. Because just because it's</p> <p>23. on the website doesn't necessarily mean that it's</p> <p>24. correct. So she does that upon receipt of each</p> <p>25. inspection report.</p>	<p style="text-align: right;">Page 27</p> <p>1. that have been deemed unsafe, inoperable, where</p> <p>2. companies do not have valid permits.</p> <p>3. We will also ensure accident</p> <p>4. reporting requirements. We do that now, ensure</p> <p>5. accident reporting requirements and remedial</p> <p>6. measures are followed. I'm not sure if you all</p> <p>7. are aware, but on July the 3rd, there were two</p> <p>8. recorded amusement device accidents. And so in</p> <p>9. addition to them reporting that information to us,</p> <p>10. we have to put our heads together and develop a</p> <p>11. remedial action plan for that company. Okay?</p> <p>12. And sometimes they call us and they</p> <p>13. want to immediately resume operation, and we have</p> <p>14. to explain to them that there's a process.</p> <p>15. Because again, our primary goal is safety. We</p> <p>16. have to ensure that the citizens are safe, these</p> <p>17. devices are safe. So they can't immediately</p> <p>18. operate. There's a process for that.</p> <p>19. We also perform data processing and</p> <p>20. collect and process payments. Anita is very</p> <p>21. involved in that process. Carlene generally</p> <p>22. collects the money and tells them how much is due</p> <p>23. and after that, Anita processes that information</p> <p>24. for us.</p> <p>25. We also process and issue permits.</p>
<p style="text-align: right;">Page 26</p> <p>1. We ensure program documents are</p> <p>2. complete. We refer companies that are</p> <p>3. uncooperative, do not comply with the law to the</p> <p>4. local authorities. We also copy the Attorney</p> <p>5. General's office as well as the District</p> <p>6. Attorney's office. And they have been -- lately,</p> <p>7. I have to say that the local attorneys, the</p> <p>8. sheriffs throughout the state have really taken</p> <p>9. this seriously and they contact us upon receipt of</p> <p>10. those documents, and they're following through for</p> <p>11. us. And we're having companies to comply with the</p> <p>12. law based on the fact that they've been contacted</p> <p>13. by local authorities.</p> <p>14. We post non-compliant, compliant</p> <p>15. companies on our website. If you all haven't</p> <p>16. looked at our website, we recently revised that.</p> <p>17. So I encourage you to take a look, because it is</p> <p>18. updated. It looks really, really good. It's user</p> <p>19. friendly. And you can determine who's compliant,</p> <p>20. because there is a link. You can determine who's</p> <p>21. non-compliant, because there is another link for</p> <p>22. that.</p> <p>23. We perform on-site -- we hope to</p> <p>24. perform on-site visits. This is what our safety</p> <p>25. consultants will help us with, red tagging devices</p>	<p style="text-align: right;">Page 28</p> <p>1. Anita mainly prepares that documentation. And we,</p> <p>2. as a unit, we maintain records and statistics. We</p> <p>3. know how many companies we have. We know the</p> <p>4. number of companies, the number of devices, the</p> <p>5. number of companies that apply for permits, the</p> <p>6. number of permits issued, the number of accidents</p> <p>7. and fatalities that occurred that are reported to</p> <p>8. us. Because of course, if they don't report it,</p> <p>9. we don't know about it.</p> <p>10. So that's pretty much where we are as</p> <p>11. far as the purpose is concerned. I want you to</p> <p>12. focus on the current fee structure. This is very</p> <p>13. ambiguous. It actually takes three items into</p> <p>14. consideration. It takes into consideration the</p> <p>15. type of device. Right now, we have to look at</p> <p>16. whether or not this is a miscellaneous, a kiddy</p> <p>17. device, a large device, spectacular device.</p> <p>18. We also have to take into</p> <p>19. consideration how tall the passenger is. Is the</p> <p>20. passenger 42 inches tall, 42 inches or less, you</p> <p>21. know. We have to take into consideration the time</p> <p>22. it takes to assemble the device. And so that can</p> <p>23. be very, very complicated. We want a simplistic</p> <p>24. approach, not only for us to determine the fees,</p> <p>25. but so that the customer will know exactly how</p>

<p style="text-align: right;">Page 29</p> <p>1. much is due. We shouldn't have to go through and 2. give them some type of computation as to how much 3. is due. They should be able to determine easily 4. how much money is due. 5. Okay? And for that reason, we're 6. proposing a flat fee with a sliding scale 7. approach. We're proposing to take a look at the 8. number of devices. For example, if they're one to 9. five devices, then the annual fee, one annual fee, 10. one fee, would be \$500. If there are six to ten 11. devices, then the fee would be \$750. Eleven to 12. twenty, \$1,000. Twenty-one to thirty, \$2,000. 13. Thirty-one to forty, 3,000. Forty-one to fifty, 14. 4,000. And fifty-one and above, 5,000. 15. Now, we didn't just pull these 16. numbers out of the air. Okay? We actually took a 17. look at the number of compliant companies that we 18. have. And we're going to pull up another chart 19. for you all. 20. Okay. You're going to have to make 21. it -- put it in the screen there, Chris. Okay. 22. Great. Okay. 23. So this document prepared with the 24. assistance of other representatives from the 25. Department, it demonstrates what we have to take</p>	<p style="text-align: right;">Page 31</p> <p>1. bottom line, if you subtract the non-recurring 2. costs -- which we calculated them to be 122,896 -- 3. from the expenditures, then that means that we 4. would need to have \$409,920 each fiscal year to 5. fund this program. That's how much we need. 6. Okay? 7. Over the next two years, this fiscal 8. year that we've just started, July the 1st, 2016 9. and the next fiscal year, we will receive moneys 10. from the legislature in the amount of \$489,600. 11. So that will give us enough time to actually hire 12. employees, become accustomed to actually having 13. them to go out, discover companies out there, set 14. up our fee structure so that we can do something 15. that would enable us to collect the amount of 16. money that we need to administer the program. 17. Because we're not there yet. 18. Based on what we did between three 19. people here, one person -- I'm counting Carlene as 20. one person. If we multiply that times three, that 21. would put us really close to that \$409,920 figure. 22. So with three people, we know that we can do that. 23. CHAIRMAN FOX: Ms. Jefferson, may I 24. ask you a question, please? 25. MS. JEFFERSON: Sure.</p>
<p style="text-align: right;">Page 30</p> <p>1. into consideration in preparing a budget. So 2. we're just not pulling numbers out of the air. We 3. have to consider salaries, we have to consider 4. benefits, we have to consider equipment, supplies 5. training, and other costs that are associated with 6. administering the Amusement Device Unit. 7. So if you take a look, you'll get an 8. idea of how much it costs for salaries and 9. benefits for each of the employees that we propose 10. to hire. Okay? And if we take a look at that, 11. the bottom line is that it's going to cost about 12. \$532,816 the first year. However, three of those 13. costs are non-recurring costs, which means that 14. they're one-time costs and they won't be factored 15. into the next year's budget. 16. That includes -- those non-recurring 17. costs are the computers, accessories, and 18. software, the cell phones as well as the computer 19. system. Because we have to have a computer system 20. because we have to make sure that our information 21. is accurate. We're actually entering information, 22. because we'll be audited, and we have to make sure 23. this information is accurate and complete. And a 24. new computer system would assist us with that. 25. And if you take a look at the very</p>	<p style="text-align: right;">Page 32</p> <p>1. CHAIRMAN FOX: These three 2. consultants, I just want to get it clarified. I'm a 3. little slow, but I just want to get it clarified one 4. way or the other. Are these folks going to become 5. certified NAARSO or AIMS inspectors and be able to 6. go out and inspect a ride? 7. MS. JEFFERSON: That is our intent. 8. They will become -- at some point, they will become. 9. When they first start, however, they will have to 10. help us to find -- to locate these companies, these 11. non-compliant companies. That will be the focus. 12. The focus will be to help us locate the 13. non-compliant companies so that we can become 14. self-sufficient. 15. CHAIRMAN FOX: Okay. Is there a 16. timeframe for which you could give us where these 17. folks would become inspectors? They have to be in 18. the field for a year and then sit for the test at 19. NAARSO. So can you give us a timeframe as to when 20. they would be certified? 21. MS. JEFFERSON: Well, if we have -- 22. CHAIRMAN FOX: Or you require them to 23. be certified. 24. MS. JEFFERSON: Well, actually, we're 25. only looking at the first two years, because if we</p>

<p style="text-align: right;">Page 33</p> <p>1. don't create a fee structure, we only have them for</p> <p>2. two years. And I keep repeating that because it's</p> <p>3. true because we received non-recurring funds from</p> <p>4. the legislature, which means that we don't have</p> <p>5. permanent funds.</p> <p>6. Like with Chris's program, the</p> <p>7. Elevator Unit, you all -- we hire them, what,</p> <p>8. immediately and then they work for about a year</p> <p>9. and after the first year, they flex them to --</p> <p>10. MR. FARMER: Yeah. They take the --</p> <p>11. MS. JEFFERSON: What was it?</p> <p>12. MR. FARMER: They sit for their QEI</p> <p>13. exam, become QEI certified after a year.</p> <p>14. MS. JEFFERSON: Uh-huh. Right.</p> <p>15. MR. FARMER: As long as they have the</p> <p>16. background in the field. You know. We can't hire</p> <p>17. somebody with no experience and get them certified</p> <p>18. within a year.</p> <p>19. MS. JEFFERSON: Exactly.</p> <p>20. MR. FARMER: They have to be limited.</p> <p>21. MS. JEFFERSON: And so it just</p> <p>22. depends. So there's no definite answer.</p> <p>23. MR. FARMER: Yeah. There's no</p> <p>24. cut-and-dried answer for it.</p> <p>25. CHAIRMAN FOX: Ms. Jefferson, I'm</p>	<p style="text-align: right;">Page 35</p> <p>1. MS. JEFFERSON: -- focus -- it's</p> <p>2. three stacks.</p> <p>3. MR. MOORE: Okay.</p> <p>4. MS. O'CONNOR: And is --</p> <p>5. MS. JEFFERSON: So I have some</p> <p>6. information for you all --</p> <p>7. MS. O'CONNOR: Right.</p> <p>8. MS. JEFFERSON: -- to take with you</p> <p>9. to review.</p> <p>10. MS. O'CONNOR: Is travel in there,</p> <p>11. because I -- or mileage reimbursement or -- because</p> <p>12. I would --</p> <p>13. MS. JEFFERSON: Yes, ma'am.</p> <p>14. MS. O'CONNOR: Okay. I just couldn't</p> <p>15. see it. So that's --</p> <p>16. MS. JEFFERSON: Yes. It's line item</p> <p>17. 19.</p> <p>18. MS. O'CONNOR: Okay. I was just</p> <p>19. thinking, if it wasn't there, that was something --</p> <p>20. MS. JEFFERSON: Yes. That's very --</p> <p>21. MS. O'CONNOR: -- we need. Okay.</p> <p>22. MS. JEFFERSON: -- important.</p> <p>23. MS. O'CONNOR: Yeah. Well, that's</p> <p>24. what I was thinking.</p> <p>25. MS. JEFFERSON: We have to take that</p>
<p style="text-align: right;">Page 34</p> <p>1. just looking for a timeframe. I'm just -- I like to</p> <p>2. be assured that that's what's going to happen.</p> <p>3. MS. JEFFERSON: Right. But I want to</p> <p>4. make sure that I'm clear that when we hire them,</p> <p>5. their main focus will be to help us locate</p> <p>6. companies, because that's what we need assistance</p> <p>7. with in order for us to become self-sufficient.</p> <p>8. Yes, ma'am.</p> <p>9. CHAIRMAN FOX: I would understand</p> <p>10. that and I support that. But again, I would like to</p> <p>11. know when they would be inspectors.</p> <p>12. MS. JEFFERSON: Right. And as Chris</p> <p>13. said, we have no way of knowing. We don't know who</p> <p>14. we're going to hire and how much experience they're</p> <p>15. going to have. It just depends.</p> <p>16. CHAIRMAN FOX: Okay.</p> <p>17. MS. O'CONNOR: On the budget, I'm --</p> <p>18. and maybe it's because I can't see it really well.</p> <p>19. I'm not seeing any line item there for travel.</p> <p>20. MS. JEFFERSON: And you know, I have</p> <p>21. some documents. I'm sorry, Mr. Moore?</p> <p>22. MR. MOORE: Yes, ma'am.</p> <p>23. MS. JEFFERSON: Do you see that stack</p> <p>24. of documents there? I had intended to --</p> <p>25. MR. MOORE: This one?</p>	<p style="text-align: right;">Page 36</p> <p>1. into consideration. Yes.</p> <p>2. MS. O'CONNOR: Thank you.</p> <p>3. MS. JEFFERSON: Yes. If you all</p> <p>4. think of anything else, feel free to let me know.</p> <p>5. But travel is included along with training,</p> <p>6. supplies, equipment. Of course, they have to have</p> <p>7. computers.</p> <p>8. MS. O'CONNOR: So would that training</p> <p>9. then include if they came in at that certification?</p> <p>10. MS. JEFFERSON: That's exactly what</p> <p>11. that's for. Mr. Fox, I'm not sure if you heard that</p> <p>12. but that training line -- the line item for</p> <p>13. training, that's for certification.</p> <p>14. CHAIRMAN FOX: Yeah. I saw that.</p> <p>15. MS. JEFFERSON: Training. Okay. All</p> <p>16. right. And then at the very bottom, Chris, on</p> <p>17. the -- can we put all of --</p> <p>18. MR. FARMER: Yeah. I'll have to do</p> <p>19. some adjusting for that.</p> <p>20. MS. JEFFERSON: Okay. At the very</p> <p>21. bottom of this document --</p> <p>22. MR. FARMER: Give me a minute.</p> <p>23. MS. BENNETT: Hey, Kim.</p> <p>24. MS. JEFFERSON: Yes.</p> <p>25. MS. BENNETT: If you put the screen</p>

<p style="text-align: right;">Page 37</p> <p>1. up, you might be able to shine it just on the wall.</p> <p>2. MS. JEFFERSON: That's true.</p> <p>3. MS. BENNETT: Do you think?</p> <p>4. MS. JEFFERSON: That's true. Do you</p> <p>5. want to lift that screen?</p> <p>6. MS. BENNETT: We can see if that will</p> <p>7. work.</p> <p>8. MR. FARMER: It might be better.</p> <p>9. MS. BENNETT: Because it looks like</p> <p>10. it's projecting okay.</p> <p>11. MS. JEFFERSON: Yes. That's smart.</p> <p>12. MR. FARMER: All right.</p> <p>13. MS. JEFFERSON: Thank you, Carlene.</p> <p>14. MR. FARMER: Thank you, Carlene.</p> <p>15. MS. JEFFERSON: Okay. If you take a</p> <p>16. look at the --</p> <p>17. MR. FARMER: Bend the screen.</p> <p>18. MS. JEFFERSON: Can you all see that?</p> <p>19. Is that --</p> <p>20. MR. FARMER: Is that too -- is that</p> <p>21. clear enough.</p> <p>22. MS. JEFFERSON: I know we have the</p> <p>23. little ball dangling down.</p> <p>24. MR. FARMER: It's all I can see.</p> <p>25. MS. JEFFERSON: But we can't do it</p>	<p style="text-align: right;">Page 39</p> <p>1. companies remitted. Okay? So we know how much</p> <p>2. the companies paid to obtain a permit this last</p> <p>3. fiscal year, and you can compare that to what</p> <p>4. we're proposing.</p> <p>5. Okay. What we're proposing --</p> <p>6. MR. RADER: What is this total, Kim?</p> <p>7. MS. JEFFERSON: The total number of</p> <p>8. companies?</p> <p>9. MR. RADER: No. The total fee</p> <p>10. schedule under the current --</p> <p>11. MS. O'CONNOR: Current structure.</p> <p>12. MR. RADER: Under the current fee</p> <p>13. schedule. This total for all the list of --</p> <p>14. MS. JEFFERSON: Oh. How much --</p> <p>15. MR. RADER: -- amusement --</p> <p>16. MS. JEFFERSON: -- did we collect?</p> <p>17. MR. RADER: Yeah.</p> <p>18. MS. JEFFERSON: We collected 150 --</p> <p>19. let me find that number for you. I know it's on one</p> <p>20. of my previous slides. Let me see here. I think it</p> <p>21. was \$152,000 is how much we collected. Here it is.</p> <p>22. Last fiscal year, we collected \$152,450 based on the</p> <p>23. current fee structure. That was for 250 companies.</p> <p>24. They had a total of 2,188 devices. Okay? So we --</p> <p>25. MR. RADER: Okay. So if we didn't</p>
<p style="text-align: right;">Page 38</p> <p>1. all. I'm sorry. But I think that's okay. Thank</p> <p>2. you.</p> <p>3. If you take a look at that, I wanted</p> <p>4. to explain this portion so that you all can better</p> <p>5. understand what we need and how we came to use</p> <p>6. these numbers. Like I said, we didn't make these</p> <p>7. numbers up. We didn't just pull them out of the</p> <p>8. air. 56 percent of the permits that were issued</p> <p>9. were based on companies with one to five devices,</p> <p>10. if that makes sense. 56 percent of 250 companies</p> <p>11. have one to five devices. Okay?</p> <p>12. 15 percent of 250 companies have</p> <p>13. between six and ten devices. 16 percent of those</p> <p>14. companies -- all the issued -- the permits that</p> <p>15. were issued -- or the companies who were issued</p> <p>16. those permits, rather, have between 11 to 20.</p> <p>17. Six percent had 21 to 30. Five percent had 31 to</p> <p>18. 40. One percent had 41 to 50. And one percent</p> <p>19. had 51 and above.</p> <p>20. I provided the Board a list of all of</p> <p>21. the companies that we've issued permits. Okay?</p> <p>22. So you have 250 companies in front of you. You</p> <p>23. have the company name on that document. You have</p> <p>24. the location of the company. You have the number</p> <p>25. of devices. And you have the amount that the</p>	<p style="text-align: right;">Page 40</p> <p>1. change anything and assuming everything stayed the</p> <p>2. same, that's what revenue this department brings in.</p> <p>3. MS. JEFFERSON: That would -- yes.</p> <p>4. If we issued 250 permits.</p> <p>5. MR. RADER: Right.</p> <p>6. MS. JEFFERSON: Uh-huh. Uh-huh. And</p> <p>7. our goal -- like I said, if one person, pretty much,</p> <p>8. because we have one person on the front end who's</p> <p>9. assisting. So if we had -- we multiply that times</p> <p>10. three, then we'd be in the ballpark for the \$400,000</p> <p>11. that we need to operate the program. So that's what</p> <p>12. we're trying to do.</p> <p>13. MR. RADER: Well, what I'm trying</p> <p>14. to -- in my mind, what would the department bring in</p> <p>15. based on your -- you've got 489,600 --</p> <p>16. MS. JEFFERSON: Uh-huh.</p> <p>17. MR. RADER: -- already approved by</p> <p>18. legislation on top of the 152,450 is what you're</p> <p>19. bringing in.</p> <p>20. MS. JEFFERSON: Uh-huh.</p> <p>21. MR. RADER: So those two added</p> <p>22. together would be what your revenue would be for at</p> <p>23. least two years, assuming you didn't issue one other</p> <p>24. permit, correct?</p> <p>25. MS. JEFFERSON: That's exactly right.</p>

<p style="text-align: right;">Page 41</p> <p>1. That's exactly right. And just keep in mind that</p> <p>2. the money goes back to the general fund. So we</p> <p>3. don't keep any of that money. It's not like we can</p> <p>4. bank on it and use it for future years. It goes</p> <p>5. back to the general fund. So we won't have that, we</p> <p>6. have to start over.</p> <p>7. What we have to do now is get a</p> <p>8. process in place so we can see how close we come</p> <p>9. to becoming self-sufficient and to act as if that</p> <p>10. money's not -- though, if our minds, we'll be</p> <p>11. using it, of course, but act as if it's not there,</p> <p>12. for purposes of determining what we can do after</p> <p>13. the first two years.</p> <p>14. CHAIRMAN FOX: May I ask a question,</p> <p>15. ma'am?</p> <p>16. MS. JEFFERSON: Sure.</p> <p>17. CHAIRMAN FOX: When these consultants</p> <p>18. come to visit, will they charge a fee for that</p> <p>19. visitation?</p> <p>20. MS. JEFFERSON: There's no fee for a</p> <p>21. consultation. No.</p> <p>22. CHAIRMAN FOX: What about an</p> <p>23. inspection?</p> <p>24. MS. JEFFERSON: No. They won't be</p> <p>25. inspecting. But the inspections will be -- on the</p>	<p style="text-align: right;">Page 43</p> <p>1. amusement.</p> <p>2. MS. JEFFERSON: Right. And I just</p> <p>3. want to make sure that we're clear on that. Yes.</p> <p>4. They will serve. In the event -- and I think that's</p> <p>5. the better way to utilize them. In the event that</p> <p>6. there is an accident, then they would go and</p> <p>7. oversee, because it was my understanding in the</p> <p>8. beginning, we wanted an extra layer of oversight.</p> <p>9. That's the way it was presented to me.</p> <p>10. So the oversight would be them going</p> <p>11. out if there is an accident, making sure that the</p> <p>12. third-party inspector has done what they were</p> <p>13. supposed to do, that the company has done what</p> <p>14. they're supposed to, and help us to enforce the</p> <p>15. remedial action plan. Because again, we have to</p> <p>16. put together a plan after the accident occurs.</p> <p>17. And we have to ensure that the company complies</p> <p>18. with our plan before we can give them</p> <p>19. authorization to resume operation of the company.</p> <p>20. MR. RADER: From information that I</p> <p>21. gathered in this accident on the 3rd of July with</p> <p>22. Gatlinburg Coaster, part of their remedial process</p> <p>23. per this department was changing of the</p> <p>24. manufacturer's manual. My question is, who is</p> <p>25. qualified to --</p>
<p style="text-align: right;">Page 42</p> <p>1. front end -- like I said, on the front end, the</p> <p>2. inspections will be performed by third-party</p> <p>3. inspectors, because we don't have -- three people</p> <p>4. is -- that's just not sufficient. And I wouldn't</p> <p>5. want to put the State in the position of having to</p> <p>6. answer, well, why didn't you all inspect a device?</p> <p>7. Because we're trying -- we're turning over rocks now</p> <p>8. trying to determine where these companies are.</p> <p>9. We're probably about to embark upon a</p> <p>10. territory that we haven't seen before, because we</p> <p>11. don't even know out there. So our goal is to turn</p> <p>12. over stones so that we can determine how many are</p> <p>13. in East Tennessee, how many in West Tennessee, and</p> <p>14. how many are here in Middle Tennessee.</p> <p>15. MR. RADER: I think our next to last</p> <p>16. meeting, if I'm -- my memory serves me, is we didn't</p> <p>17. discuss the three inspectors going out and</p> <p>18. inspecting each and every ride. They were going to</p> <p>19. represent the State in case of an accident just like</p> <p>20. what's occurred on July the 3rd.</p> <p>21. MS. JEFFERSON: Exactly. Exactly.</p> <p>22. And they --</p> <p>23. MR. RADER: So our expectations as a</p> <p>24. board were we weren't expecting the three inspectors</p> <p>25. to go out and inspect every ride and every</p>	<p style="text-align: right;">Page 44</p> <p>1. MS. JEFFERSON: No.</p> <p>2. MR. RADER: -- to tell them to do</p> <p>3. that?</p> <p>4. MS. JEFFERSON: No. Not the</p> <p>5. manufacturer's manual. We actually -- here in the</p> <p>6. Department, we tell them to --</p> <p>7. MR. RADER: So their own safety</p> <p>8. manual.</p> <p>9. MS. JEFFERSON: Their own safety</p> <p>10. manual. The company's --</p> <p>11. MR. RADER: So again, whose --</p> <p>12. MS. JEFFERSON: The company's manual.</p> <p>13. MR. RADER: Okay. But who's</p> <p>14. qualified to tell them --</p> <p>15. MS. JEFFERSON: What to change?</p> <p>16. MR. RADER: -- how to change, what to</p> <p>17. change? There are certain things that are just</p> <p>18. basic to the industry. We have attorneys, general</p> <p>19. counsel if we have questions about things that need</p> <p>20. to be changed. We can propose those questions. I</p> <p>21. have a legal background myself.</p> <p>22. MR. RADER: I understand that, but --</p> <p>23. MS. JEFFERSON: So --</p> <p>24. MR. RADER: Attorney versus somebody</p> <p>25. that's schooled in amusements with the</p>

<p style="text-align: right;">Page 45</p> <p>1. certifications would --</p> <p>2. MS. JEFFERSON: But they're not</p> <p>3. looking at technical issues. These are more --</p> <p>4. these issues -- the third-party inspector actually</p> <p>5. provides the technical expertise. They indicate in</p> <p>6. their report, say, if there's something, some part</p> <p>7. of the device that's defective, they let us know.</p> <p>8. And if they do, we include that in our remedial</p> <p>9. action plan. From the Department's perspective --</p> <p>10. MR. RADER: You get that from the</p> <p>11. third-party when they go out when the accident</p> <p>12. occurs.</p> <p>13. MS. JEFFERSON: Yes.</p> <p>14. MR. RADER: My question is, when you</p> <p>15. tell them, they need to change something within</p> <p>16. their safety procedures and their manual, who is --</p> <p>17. who required -- who has the requirements and the</p> <p>18. certifications to do that?</p> <p>19. MS. JEFFERSON: Well, it's really --</p> <p>20. generally, it's not that type of -- it's not</p> <p>21. technical. From this office, we're not providing</p> <p>22. technical. All the technical advice comes from the</p> <p>23. third-party inspector. The third-party inspector</p> <p>24. says something needs to be changed in the manual.</p> <p>25. Then we're relying on them, because they're</p>	<p style="text-align: right;">Page 47</p> <p>1. has changed.</p> <p>2. MR. RADER: Is that ride-related or</p> <p>3. premises-related or both?</p> <p>4. MS. JEFFERSON: It's everything.</p> <p>5. Anything that happens on the premise. It's</p> <p>6. device --</p> <p>7. MR. RADER: Okay. So let's say it's</p> <p>8. 5:30 on a Friday, July 4th weekend and there's a</p> <p>9. slip and fall at -- somebody gets out of a cart and</p> <p>10. they fall and they break their ankle.</p> <p>11. MS. JEFFERSON: Well, it has to</p> <p>12. follow --</p> <p>13. MR. RADER: -- and the emergency --</p> <p>14. MS. JEFFERSON: -- the definition.</p> <p>15. The definition. There are definitions in the law</p> <p>16. that define what is a serious incident. They define</p> <p>17. what is a serious physical injury.</p> <p>18. MR. RADER: Where is that?</p> <p>19. MS. JEFFERSON: It's in the law.</p> <p>20. MR. RADER: Where do we find that?</p> <p>21. MS. JEFFERSON: It's Tennessee Code</p> <p>22. Annotated Section 68- --</p> <p>23. MR. RADER: It's on your website?</p> <p>24. MS. JEFFERSON: -- 121. It's on the</p> <p>25. website. Yes. Everything is on the website. And I</p>
<p style="text-align: right;">Page 46</p> <p>1. third-party inspectors and they're certified by one</p> <p>2. of the certifying agencies. So they're in a</p> <p>3. position to make that determination.</p> <p>4. What the State does is enforce what</p> <p>5. they provide us in writing. They're the ones that</p> <p>6. make those type of decisions. Now, we may tell</p> <p>7. them -- and we had to look at several different</p> <p>8. issues in the Department. And we tell them</p> <p>9. that -- hey, you need to take a look at your</p> <p>10. owners -- at your accident reporting requirements,</p> <p>11. for example. Because your accident reporting</p> <p>12. requirements do not mirror what the State</p> <p>13. requires. And we just recently had to do that.</p> <p>14. MR. RADER: Well now the new law</p> <p>15. requires any time the emergency vehicles have</p> <p>16. been -- or responders have been called, they're</p> <p>17. supposed to report it, correct?</p> <p>18. MS. JEFFERSON: Well, in the past --</p> <p>19. MR. RADER: No matter what.</p> <p>20. MS. JEFFERSON: They're supposed to</p> <p>21. report everything now. The prior law only required</p> <p>22. them to report a serious, physical injury. Now,</p> <p>23. they have to report a serious incident, a serious</p> <p>24. physical injury, as well as the fatality. So they</p> <p>25. have to report everything. You're right. The law</p>	<p style="text-align: right;">Page 48</p> <p>1. would encourage you all to take a look at it,</p> <p>2. because we have revised that information.</p> <p>3. MR. RADER: Thank you.</p> <p>4. MS. JEFFERSON: And it's</p> <p>5. user-friendly. There's even a form for them to use</p> <p>6. in the event that they want to report the accident</p> <p>7. that way. Now they can actually send something on</p> <p>8. their letterhead, but we did that to make that more</p> <p>9. user-friendly for them.</p> <p>10. MR. RADER: Well, the reason I'm</p> <p>11. asking all these questions is I felt a little bit</p> <p>12. out in the dark when this occurred, because</p> <p>13. logistically where I live is in the Gatlinburg area,</p> <p>14. and the fact that this coaster owner knew I was on</p> <p>15. the Board. And then all of a sudden, he's telling</p> <p>16. me about a new law that I've polled the Board, and I</p> <p>17. have no earthly idea that that was changed --</p> <p>18. MS. JEFFERSON: Yes.</p> <p>19. MR. RADER: -- until Ms. Bennett sent</p> <p>20. it me over in an e-mail.</p> <p>21. MS. JEFFERSON: Uh-huh.</p> <p>22. MR. RADER: Who enacted that</p> <p>23. legislation? Who proposed it?</p> <p>24. CHAIRMAN FOX: Who proposed it to the</p> <p>25. representatives and senators?</p>

<p style="text-align: right;">Page 49</p> <p>1. MS. JEFFERSON: We have to --</p> <p>2. MS. DURM: That was a governor's</p> <p>3. piece of the legislation.</p> <p>4. MR. RADER: I'm sorry?</p> <p>5. MS. DURM: That was a governor's</p> <p>6. piece of the legislation.</p> <p>7. CHAIRMAN FOX: Where's the initial</p> <p>8. proposal from, may I ask?</p> <p>9. MS. DURM: That came at looking at</p> <p>10. code here, didn't it, Kim?</p> <p>11. MS. JEFFERSON: Uh-huh.</p> <p>12. CHAIRMAN FOX: Okay.</p> <p>13. MS. JEFFERSON: Yeah. The Department</p> <p>14. reviews laws that are in place to determine whether</p> <p>15. or not something needs to be modified. And so yeah,</p> <p>16. that was something that needed to be modified.</p> <p>17. CHAIRMAN FOX: Right.</p> <p>18. MR. RADER: We're not -- I'm not</p> <p>19. questioning that. But I mean, as a Board member, I</p> <p>20. would have thought that that would have been</p> <p>21. something that would -- at least we would have been</p> <p>22. aware of.</p> <p>23. CHAIRMAN FOX: Yeah. At least known</p> <p>24. about before it happened. I just wonder how it got</p> <p>25. started. And may I ask you, did you consult with</p>	<p style="text-align: right;">Page 51</p> <p>1. this: With so much going on, when you have</p> <p>2. legislation out there -- and I understand what you</p> <p>3. all are saying. But with so much going on, keep in</p> <p>4. mind that when legislation is proposed, there are</p> <p>5. ways to go on to take a look to see what's being</p> <p>6. proposed. There are ways to track bills online, and</p> <p>7. that's what, you know, some of them --</p> <p>8. MR. RADER: So you're saying now it's</p> <p>9. our responsibility to go online to check to see</p> <p>10. what's being proposed.</p> <p>11. MS. JEFFERSON: Right. Well, I'm --</p> <p>12. MR. RADER: As it relates to this</p> <p>13. board and this department.</p> <p>14. MS. JEFFERSON: Everything that</p> <p>15. relates to the Board, I would think that you would</p> <p>16. have a concern, especially for a legislative</p> <p>17. session. I'm surprised that you didn't know of any</p> <p>18. of the --</p> <p>19. MR. RADER: Wow.</p> <p>20. MS. JEFFERSON: -- amendments. But I</p> <p>21. understand what you're saying.</p> <p>22. CHAIRMAN FOX: Ma'am, that --</p> <p>23. MS. JEFFERSON: I understand what</p> <p>24. you're saying.</p> <p>25. CHAIRMAN FOX: I've got to tell you.</p>
<p style="text-align: right;">Page 50</p> <p>1. any member of this Board?</p> <p>2. MS. JEFFERSON: Actually, the</p> <p>3. Department and the Commissioner, that is a part of</p> <p>4. what the Department does.</p> <p>5. CHAIRMAN FOX: Well, I understand</p> <p>6. that, but the Commissioner also has this board</p> <p>7. assemble as somewhat experts in the field, like</p> <p>8. elevators and/or amusement rides. I would think I</p> <p>9. would want to at least poll them to find out what's</p> <p>10. happening --</p> <p>11. MS. JEFFERSON: Uh-huh.</p> <p>12. CHAIRMAN FOX: -- and to make</p> <p>13. recommendations.</p> <p>14. MR. RADER: Or to at least know about</p> <p>15. it.</p> <p>16. CHAIRMAN FOX: Or at least know about</p> <p>17. it. You know. It's kind of like we're here right</p> <p>18. now. We were in the dark. We didn't know till we</p> <p>19. got that law.</p> <p>20. MS. JEFFERSON: Uh-huh. Right.</p> <p>21. CHAIRMAN FOX: And these people are</p> <p>22. calling us, telling us about it. It kind of makes</p> <p>23. us look bad.</p> <p>24. MS. JEFFERSON: Uh-huh. Well, and</p> <p>25. again, you know, with so much going on -- I'll say</p>	<p style="text-align: right;">Page 52</p> <p>1. I feel that that was -- I feel that we were kind of</p> <p>2. hoodwinked a little bit in this deal.</p> <p>3. MS. JEFFERSON: Uh-huh.</p> <p>4. CHAIRMAN FOX: And, you know,</p> <p>5. communication is a very valuable thing. And had you</p> <p>6. told us, we might have been able to help you.</p> <p>7. MS. JEFFERSON: Uh-huh.</p> <p>8. CHAIRMAN FOX: That's what we're here</p> <p>9. for.</p> <p>10. MS. JEFFERSON: Right. And --</p> <p>11. CHAIRMAN FOX: I'll assure you that.</p> <p>12. We will help you any way we can, but you have to</p> <p>13. communicate with us or somebody from your office has</p> <p>14. to tell us. We don't know.</p> <p>15. We're people who have very serious</p> <p>16. jobs. We all work hard, and we don't have time to</p> <p>17. go on there to look to see if something has been</p> <p>18. proposed. It's going to be adversarial to us. We</p> <p>19. can't keep up with that. We don't have lobbyists</p> <p>20. here to, for our board, to do just that.</p> <p>21. If you know of something, we would</p> <p>22. ask you -- we would have thought you would have</p> <p>23. told us. But obviously, that didn't happen.</p> <p>24. MS. JEFFERSON: Right. I understand.</p> <p>25. Again, some information on -- like I said, some</p>

<p style="text-align: right;">Page 53</p> <p>1. things are proposed on behalf of the Department. 2. And that's -- you know, that's pretty much the way 3. that it's done. I understand your concern as far as 4. that's concerned, but, you know, everything is 5. pretty much done. And like I said, I would think 6. that -- 7. MR. RADER: We know it's done. 8. CHAIRMAN FOX: Oh, it's done. We 9. know that. 10. MS. JEFFERSON: It's done. 11. CHAIRMAN FOX: Yeah. 12. MS. JEFFERSON: It's a done deal. 13. CHAIRMAN FOX: But we didn't know 14. about it until it came out. 15. MS. JEFFERSON: Uh-huh. 16. CHAIRMAN FOX: And we wouldn't have 17. known about it now had somebody not sent it to us or 18. furthermore, the folks up there got notice of it, I 19. guess, when they had the accident. 20. MS. JEFFERSON: Right. And, you 21. know, going forth, I guess the best thing to do 22. would be to send -- if there's legislation pending 23. by the Department, to send that directly to you all. 24. CHAIRMAN FOX: Well, it's a little 25. late now.</p>	<p style="text-align: right;">Page 55</p> <p>1. amusement device. 2. MR. HALE: Right. 3. MS. JEFFERSON: That's it. 4. MR. HALE: If they fall down on 5. the -- running from ride to ride on the midway, 6. that's not device accident. 7. MS. JEFFERSON: Uh-huh. That's true. 8. MR. HALE: That's a walkway accident. 9. MS. JEFFERSON: That's true. So 10. anything that happens on the device. And as I said 11. before, the statute defines what's reportable. It 12. actually defines a serious incident versus a serious 13. physical injury. 14. MR. HALE: Whether they're 15. transported off site for treatment, whether the 16. injury requires hospitalization, so forth. 17. MS. JEFFERSON: Uh-huh. 18. CHAIRMAN FOX: Let me ask a question 19. about that, ma'am. Just want to get clarification 20. here. I want to be clear from now on. So if 21. someone gets sick on a ride and they're dehydrated 22. or whatever and they have to be transported by an 23. ambulance to a local facility, is that a reportable 24. issue? And second of all, do we have to close that 25. ride until we send somebody in to get it inspected?</p>
<p style="text-align: right;">Page 54</p> <p>1. MS. JEFFERSON: Right. I understand. 2. CHAIRMAN FOX: Yeah. 3. MS. JEFFERSON: All right. 4. MR. HALE: Miss, I want to go back 5. and clarify in my mind something that you said. You 6. made the statement that if anything happened on the 7. premises. 8. MS. JEFFERSON: Uh-huh. 9. MR. HALE: That it required a report 10. into here. Well -- 11. MS. JEFFERSON: Devices. 12. MR. HALE: -- a large failure in 13. Middle Tennessee has somebody kicked by a cow 14. doesn't require -- 15. MS. JEFFERSON: No. Just -- 16. MR. HALE: -- a report. 17. MS. JEFFERSON: Just devices. 18. MR. HALE: Or somebody that slips and 19. falls in a restaurant in a large facility in East 20. Tennessee doesn't require a device report. 21. MS. JEFFERSON: That's right. And 22. the statute is clear. 23. MR. HALE: It is actually only -- by 24. T.C.A., only things that occur on the ride. 25. MS. JEFFERSON: Right. On the</p>	<p style="text-align: right;">Page 56</p> <p>1. MS. JEFFERSON: The law states that 2. you have to cease and desist operation if there is a 3. serious incident, serious physical injury or 4. fatality. The law further states that you have to 5. report that accident to the Department. 6. CHAIRMAN FOX: So again, if somebody 7. gets sick -- I'm talking about having a -- 8. MS. JEFFERSON: If someone is -- 9. CHAIRMAN FOX: -- GI issue. 10. MS. JEFFERSON: If someone -- it says 11. if someone's injured. But you have to -- let's take 12. a look at the definition. 13. CHAIRMAN FOX: I have. 14. MS. JEFFERSON: Because we have to be 15. very specific as to -- 16. CHAIRMAN FOX: I have read it, ma'am. 17. MS. JEFFERSON: -- what the 18. definition says. 19. CHAIRMAN FOX: Trust me when I tell 20. you I have. 21. MS. JEFFERSON: Uh-huh. 22. CHAIRMAN FOX: But this new law puts 23. us in the predicament of if someone physically gets 24. sick -- 25. MS. JEFFERSON: I don't believe so.</p>

<p style="text-align: right;">Page 57</p> <p>1. CHAIRMAN FOX: It's in --</p> <p>2. MS. JEFFERSON: And we have to look</p> <p>3. at --</p> <p>4. CHAIRMAN FOX: -- the incident.</p> <p>5. MS. JEFFERSON: We have to look at it</p> <p>6. on a case by case analysis. The best thing to do if</p> <p>7. companies are reporting everything, they're</p> <p>8. reporting those incidents to us and then we let them</p> <p>9. know how to proceed. But we have to take this on a</p> <p>10. case by case analysis, because one situation may not</p> <p>11. apply to the next.</p> <p>12. CHAIRMAN FOX: That's why I said I</p> <p>13. want to be perfectly clear.</p> <p>14. MS. JEFFERSON: Uh-huh. If you</p> <p>15. call -- contact our office, we'll let you know for</p> <p>16. sure. Okay?</p> <p>17. All right. Okay. And I think we're</p> <p>18. basically done with the flat fee schedule. So</p> <p>19. that's what we're proposing, the \$500 for the</p> <p>20. companies with one to five devices. \$750 for</p> <p>21. companies with six to ten devices. \$1,000 for</p> <p>22. companies with 11 to 20 devices. \$2,000 for</p> <p>23. companies with 21 to 30 devices. \$3,000 for</p> <p>24. companies with devices that have 31 to 40 devices.</p> <p>25. \$4,000 for companies with devices in the amount</p>	<p style="text-align: right;">Page 59</p> <p>1. MS. JEFFERSON: The last document,</p> <p>2. the last slide, rather.</p> <p>3. MS. O'CONNOR: That 201,250?</p> <p>4. MS. JEFFERSON: Uh-huh.</p> <p>5. MS. O'CONNOR: 221 ride.</p> <p>6. MS. JEFFERSON: Right. And that was</p> <p>7. based on 221 rides. If you base it on 250, then the</p> <p>8. amount would have been more like \$223,250.</p> <p>9. MS. O'CONNOR: So we're seeing an</p> <p>10. increase of about 50,000 --</p> <p>11. MS. JEFFERSON: Uh-huh.</p> <p>12. MS. O'CONNOR: -- based on the new</p> <p>13. structure. Okay. Thank you.</p> <p>14. MS. JEFFERSON: Uh-huh. Okay. Does</p> <p>15. anyone else have any questions?</p> <p>16. MR. MOORE: Yes. How many</p> <p>17. non-compliant companies do we have out there that</p> <p>18. you're aware of?</p> <p>19. MS. JEFFERSON: Well, the 250, those</p> <p>20. are the non-compliant companies that we've issued</p> <p>21. permits to.</p> <p>22. MR. MOORE: And on the website, you</p> <p>23. said there's a listing of non-compliant. Does that</p> <p>24. mean they're not paying their fees?</p> <p>25. MS. JEFFERSON: Exactly.</p>
<p style="text-align: right;">Page 58</p> <p>1. of -- well, the number of devices are 41 to 50.</p> <p>2. And then for companies that have 51 and above</p> <p>3. devices, we're proposing \$5,000.</p> <p>4. And in looking at the number of --</p> <p>5. the percentages, you'll see the percentage at the</p> <p>6. very top, which shows you the number of companies</p> <p>7. that fall within those ranges. So that is the</p> <p>8. Department's proposal for a modified fee</p> <p>9. structure.</p> <p>10. MS. O'CONNOR: I'm sorry if I missed</p> <p>11. this, but based on this 152,450 of the, what, 250</p> <p>12. companies on the current pricing schedule, what</p> <p>13. would this be last year on the new fee structure?</p> <p>14. MS. JEFFERSON: Okay. Based on the</p> <p>15. new fee structure, if you take a look down at the</p> <p>16. very bottom there, I know it's very difficult.</p> <p>17. Actually, the 200 -- I think the 200 would be --</p> <p>18. would come a little closer to the amount. And I</p> <p>19. also had another document here. Hold on one second.</p> <p>20. MS. O'CONNOR: I'm just trying to get</p> <p>21. a sense of, you know, comparing apples to apples</p> <p>22. here.</p> <p>23. MS. JEFFERSON: Okay. If you take a</p> <p>24. look at that PowerPoint presentation.</p> <p>25. MS. O'CONNOR: Yes.</p>	<p style="text-align: right;">Page 60</p> <p>1. MR. MOORE: And if -- and Carlene,</p> <p>2. you don't happen to know off the top of your head</p> <p>3. how many non-compliant there are on the side, do</p> <p>4. you? In other words, I'm just trying to figure out</p> <p>5. how much more additional money would come in above,</p> <p>6. you know, just from the ones that we know about.</p> <p>7. Because I'm certain there will be ones discovered</p> <p>8. but --</p> <p>9. MS. JEFFERSON: Uh-huh.</p> <p>10. MS. BENNETT: Well, actually the ones</p> <p>11. on the website are the ones that we've referred to</p> <p>12. local authorities. And there's about a dozen on</p> <p>13. there. But there's a lot of non-compliant companies</p> <p>14. that, you know, we're in the process of trying to</p> <p>15. get them to become compliant, because, you know, we</p> <p>16. have a process of asking them to become compliant,</p> <p>17. sending a cease and desist, and then referring them.</p> <p>18. You know. So, you know, I would say there's a lot</p> <p>19. of non-compliant we don't even know about yet.</p> <p>20. MR. MOORE: So if we do make them</p> <p>21. compliant, there's a chance we're going to easily</p> <p>22. make out 200 and some number if we get the ones just</p> <p>23. that we know about and especially the ones we don't</p> <p>24. know about.</p> <p>25. MS. JEFFERSON: Right. And</p>

<p style="text-align: right;">Page 61</p> <p>1. previously, we estimated about -- I think we said</p> <p>2. that there were about 500 companies, 500 additional</p> <p>3. companies, 500, 600. So that's what we're hoping.</p> <p>4. We don't know for sure, but we're hoping that there</p> <p>5. are at least 600 more companies out there. And if</p> <p>6. they're -- say, if they're evenly distributed, which</p> <p>7. they're probably not, but if they're evenly</p> <p>8. distributed in each grand division, having three</p> <p>9. people, that's going to help us to discover those</p> <p>10. companies.</p> <p>11. So after the first year, we should</p> <p>12. have come very close to discovering those</p> <p>13. companies, because those safety consultants will</p> <p>14. assist us to survey the territory and find and</p> <p>15. locate all those companies. That's our goal.</p> <p>16. MR. RADER: Hey Kim, can I ask a</p> <p>17. question on the revenue again? Just to help me</p> <p>18. understand. So --</p> <p>19. MS. JEFFERSON: Yes.</p> <p>20. MR. RADER: -- if we use 152,450 of</p> <p>21. the income that this department currently generates,</p> <p>22. assuming that you don't add another one, plus the</p> <p>23. legislative money totals cost 641,000. So you're</p> <p>24. saying that money goes back into the general fund</p> <p>25. and you submit your budget and then that's either</p>	<p style="text-align: right;">Page 63</p> <p>1. CHAIRMAN FOX: -- goes back --</p> <p>2. MS. JEFFERSON: June the 30th.</p> <p>3. CHAIRMAN FOX: -- against the 4899.</p> <p>4. MR. RADER: Okay.</p> <p>5. MS. JEFFERSON: So we can't count</p> <p>6. that. That's what I was saying earlier. We can't</p> <p>7. build on it.</p> <p>8. MR. RADER: All right. That's where</p> <p>9. I was confused. I'm sorry.</p> <p>10. MS. JEFFERSON: That's okay.</p> <p>11. MR. RADER: Yeah.</p> <p>12. MS. JEFFERSON: Do you all have any</p> <p>13. more questions? Okay. Great. All right. And I</p> <p>14. just wanted to say, because I -- you know, I'm</p> <p>15. trying to do the right thing here. So I just want</p> <p>16. to say that I know that there has been contention</p> <p>17. amongst the Board, and I know that we all want to do</p> <p>18. the right thing. I know that all of us, we do what</p> <p>19. we do because we want to make sure that this is a</p> <p>20. successful program, and we want to ensure that the</p> <p>21. citizens and the visitors are safe.</p> <p>22. So I think that we all have that in</p> <p>23. common. That's what we want to do, and that is</p> <p>24. the primary concern. So going forth, I will take</p> <p>25. you all's considerations into -- just take that</p>
<p style="text-align: right;">Page 62</p> <p>1. approved or not approved, correct?</p> <p>2. MS. JEFFERSON: Well, the way that it</p> <p>3. works is that we receive funding from the</p> <p>4. legislature for this year, because we just started a</p> <p>5. new fiscal year on July 1st, 2015 (sic) through the</p> <p>6. end of the fiscal year, which is June the 30th. So</p> <p>7. we're automatically going to receive funding for</p> <p>8. this fiscal year and next fiscal year. Okay?</p> <p>9. The --</p> <p>10. MR. RADER: Of how much?</p> <p>11. MS. JEFFERSON: Four hundred</p> <p>12. eighty-nine thousand --</p> <p>13. MR. RADER: Okay.</p> <p>14. MS. JEFFERSON: -- six hundred</p> <p>15. dollars.</p> <p>16. MR. RADER: So the 152's what goes --</p> <p>17. currently, what you bring in goes to the general --</p> <p>18. MS. JEFFERSON: That's going to the</p> <p>19. general fund.</p> <p>20. MR. RADER: Okay.</p> <p>21. CHAIRMAN FOX: And that goes --</p> <p>22. MS. JEFFERSON: The money -- it's</p> <p>23. already gone.</p> <p>24. CHAIRMAN FOX: And that --</p> <p>25. MS. JEFFERSON: It's gone.</p>	<p style="text-align: right;">Page 64</p> <p>1. under advisement, because I understand you all do</p> <p>2. want to be a part of everything that's going on</p> <p>3. with the Department.</p> <p>4. And I know earlier, we were talking</p> <p>5. about the inspectors, and I think that's pretty</p> <p>6. much how it got lost. We were probably still</p> <p>7. stuck on trying to get inspectors, and we had to</p> <p>8. move on to do some other things, because we still</p> <p>9. had to administer this program. So that's -- I</p> <p>10. believe that's, you know, where the lack of</p> <p>11. communication set in.</p> <p>12. So like I said, I'm a bigger person,</p> <p>13. and I want to apologize if you all feel that you</p> <p>14. did not receive the information that you should</p> <p>15. have. And going forth, we'll just make a really</p> <p>16. serious attempt to make sure that you all receive</p> <p>17. the information that you need. Okay? Thank you.</p> <p>18. CHAIRMAN FOX: Item Number Seven.</p> <p>19. Old Business. 16-01. Consider adoption of</p> <p>20. ANSI/PRCA Standard/Board recommendation.</p> <p>21. MR. BARKER: Good morning, everyone.</p> <p>22. I don't know if everybody's been here. I've been</p> <p>23. here -- this is my third time.</p> <p>24. CHAIRMAN FOX: Third time.</p> <p>25. MR. BARKER: Third time now. So I'll</p>

<p style="text-align: right;">Page 65</p> <p>1. just give a brief introduction. I'm Mike Barker.</p> <p>2. I'm the president of the Professional Ropes Course</p> <p>3. Association. I'm also the accredited -- a PRCA</p> <p>4. accredited builder, inspector, and trainer. I'm</p> <p>5. also a member of the American Society of Safety</p> <p>6. Engineers, the Association for Challenge Course</p> <p>7. Technology, NAARSO, ASTM. I'm a member of an ANSI</p> <p>8. committee for certificate accreditation programs,</p> <p>9. which is training -- certifying training programs by</p> <p>10. ANSI. And I've been a risk manager for the city of</p> <p>11. New Haven. And I've been a Chief Law Enforcement</p> <p>12. Officer.</p> <p>13. MR. BAILEY: Mr. Chairman, if I may,</p> <p>14. I think we may have jumped the gun here a little</p> <p>15. bit. Ms. Jefferson's proposal was asking the Board</p> <p>16. for their approval of a rate increase, of amusement</p> <p>17. device rate increase. So there's really a question</p> <p>18. here as to whether or not the Board's going to</p> <p>19. approve, disapprove, or table it. And I think that</p> <p>20. needs to be handled first before we move forward.</p> <p>21. CHAIRMAN FOX: Okay.</p> <p>22. MR. HALE: So --</p> <p>23. CHAIRMAN FOX: Ms. Jefferson is</p> <p>24. asking for an increase in fees. That has been</p> <p>25. presented. What is the pleasure of the Board?</p>	<p style="text-align: right;">Page 67</p> <p>1. taking a look at the list here, I was looking at the</p> <p>2. number of companies with one device, and I did -- I</p> <p>3. do see that there's one that's paying 175.</p> <p>4. CHAIRMAN FOX: There's a letter on</p> <p>5. the first page.</p> <p>6. MS. JEFFERSON: But for the most</p> <p>7. part, when you average -- yeah, when you average all</p> <p>8. of those, between one and five, in the one to five</p> <p>9. category, the \$500 is pretty reasonable when you</p> <p>10. average all the of the companies. And what I did in</p> <p>11. looking at that, I determined the number of</p> <p>12. companies in that range and we have about 140. So</p> <p>13. 140 companies make up the biggest part of this list,</p> <p>14. the 250. You have 140 out of 250, which represents</p> <p>15. 56 percent of that total.</p> <p>16. You have 44 companies that fall</p> <p>17. between the five to ten range. That's 18 percent.</p> <p>18. You have 36 companies between the 11 to 20.</p> <p>19. That's 14 percent. And really, when you look at</p> <p>20. it, no matter how you do it, you're going to have</p> <p>21. some upset people.</p> <p>22. MR. HALE: That's right. I realize</p> <p>23. that.</p> <p>24. MS. JEFFERSON: You're going to have</p> <p>25. people upset regardless.</p>
<p style="text-align: right;">Page 66</p> <p>1. MR. HALE: So you're -- in your flat</p> <p>2. fee proposal, that one amount of money is all that</p> <p>3. that company owes.</p> <p>4. MS. JEFFERSON: Right. Based on the</p> <p>5. number of devices that the company has.</p> <p>6. MR. HALE: I guess I have a little</p> <p>7. bit of concern about the person that owns one</p> <p>8. inflatable --</p> <p>9. MS. JEFFERSON: Uh-huh.</p> <p>10. MR. HALE: -- paying \$500 and a large</p> <p>11. park that has 40 paying 3,000. It does not seem to</p> <p>12. be totally equitable in that sense. I do agree that</p> <p>13. we need an easier or a more concise way, but I think</p> <p>14. the intent of the Board at the time in providing</p> <p>15. that sliding scale was that the risk for somebody</p> <p>16. being on a roller coaster was different than the</p> <p>17. risk of somebody being in a kiddy bounce house and</p> <p>18. that -- and therefore, it required a greater amount</p> <p>19. of technical expertise for that device -- for that</p> <p>20. roller coaster versus the bounce house, and that's</p> <p>21. why it costs more to inspect it or to permit it.</p> <p>22. So like I said, I have a little bit</p> <p>23. of concern of raising somebody who had one bounce</p> <p>24. house that was paying \$175 to 500.</p> <p>25. MS. JEFFERSON: Well, actually,</p>	<p style="text-align: right;">Page 68</p> <p>1. MR. HALE: I was just saying -- but</p> <p>2. for instance, as Chairman Fox pointed out, on the</p> <p>3. front page, there's 11 people that have one</p> <p>4. device --</p> <p>5. MS. JEFFERSON: Uh-huh.</p> <p>6. MR. HALE: -- and every one of those,</p> <p>7. you're doubling their fee.</p> <p>8. MS. JEFFERSON: Uh-huh.</p> <p>9. MR. HALE: At least doubling their</p> <p>10. fee.</p> <p>11. MS. JEFFERSON: Uh-huh. And that</p> <p>12. amount -- I don't have the State information and I</p> <p>13. know we do have, you know, how this is handled from</p> <p>14. state to state. And so we did look at other states,</p> <p>15. and we learned that Tennessee's fees are relatively</p> <p>16. low in comparison to other states.</p> <p>17. This is good. For example, and let's</p> <p>18. see here. I haven't looked at this in a while,</p> <p>19. but in Arkansas, for example -- let's see. It</p> <p>20. would not cover. Arkansas is pretty much in the</p> <p>21. same boat that we're in. Their fees go into the</p> <p>22. general fund. The fees are charged -- the fees</p> <p>23. charged now in Arkansas are not enough to cover</p> <p>24. the cost of their program. Right now, they're</p> <p>25. charging -- one to five rides, they're charging</p>

<p style="text-align: right;">Page 69</p> <p>1. \$100. Two to six rides, they're charging 200. 16 2. to 25, they're charging 300. 26 to 35, they're 3. charging 400. 36 or more, they're charging 600. 4. But they're in the same boat that 5. we're in. So they're not going to be 6. self-sufficient. I'm not really sure how much 7. money they're receiving from the legislature. But 8. you know that we didn't receive anything from the 9. legislature previously. We were fortunate enough 10. to attain moneys this year and for next year, but 11. there's no guarantee we're going to receive that 12. funding. 13. And in Colorado, yearly application 14. fee is \$500 plus a yearly inspection fee of \$130 15. per device. So as you can see, that's a whole lot 16. more. Florida, they have a yearly permit fee of 17. \$430, and their new rides have license plates 18. attached for tracking purposes. They have 19. inspection fees, as well, and they charge for 20. non-kiddies, \$70; super rides, \$140; late 21. inspections are \$100. They collected \$65,000 in 22. late fees last year. 23. So compared to other states, it's 24. still relatively -- I think it's a reasonable 25. amount. In Kentucky, since that's a closer state,</p>	<p style="text-align: right;">Page 71</p> <p>1. MS. O'CONNOR: With regard to the zip 2. lines, how -- and I don't know that -- honestly, I 3. don't know that much about zip lines. But when 4. we're talking about a device category, how do we 5. number those for the fee structure? I mean, is it 6. per line? 7. MS. JEFFERSON: Generally, it's 8. per -- the way we do it now -- Carlene can probably 9. explain. Explain the way we do it now, because 10. it'll probably be a lot that's the same. 11. MS. BENNETT: There are some zip 12. lines that are per line. It's the ones where 13. somebody steps up and they do the zip line and then 14. they -- to do it again, they have to pay again to do 15. it. But then there's canopy tours that has multiple 16. elements, and that's considered one device. 17. MS. O'CONNOR: Okay. That's where -- 18. MS. BENNETT: Where they pay one fee 19. and then they do the whole thing, you know, 20. endlessly, you know. 21. MS. O'CONNOR: That's where I was 22. going, because the -- one of the purposes of this 23. new structure is to get rid of the ambiguity. So 24. that's why I'm asking with regard to zip lines in 25. particular.</p>
<p style="text-align: right;">Page 70</p> <p>1. inflatables, they charge \$50, which are double 2. what we charge. Bungee devices, kiddie rides, 3. climbing walls, and water rides are \$75. The 4. go-kart facility, \$125. Major rides, \$150. 5. Roller coasters, 200. Wooden roller coasters, 6. 300. Anything else not listed, 150. 7. So that just gives you an idea. And 8. I'll pass these around, because we got -- 9. MR. RADER: I'm good, thank you. 10. MS. JEFFERSON: So we'll just give 11. those to you. 12. CHAIRMAN FOX: Thank you. 13. MS. JEFFERSON: Okay. 14. CHAIRMAN FOX: When do we meet again, 15. ma'am? 16. MS. JEFFERSON: Carlene, do you have 17. that date? Is it on the -- 18. CHAIRMAN FOX: September the 13th or 19. 7? 20. MS. BENNETT: It's the last thing on 21. the agenda. It will be September the 13th. 22. CHAIRMAN FOX: Okay. 23. MS. O'CONNOR: I have a question, if 24. I can ask it. 25. MS. JEFFERSON: Sure.</p>	<p style="text-align: right;">Page 72</p> <p>1. MS. JEFFERSON: How do we 2. determine -- 3. MS. O'CONNOR: How are we going to 4. determine that so that there isn't ambiguity going 5. forward? 6. MS. JEFFERSON: And what we do -- we 7. rely on the third-party inspectors to provide 8. information in their inspection report to let us 9. know, you know, how many devices there are. So when 10. we receive our inspection report, they would have -- 11. you know, they would have provided information so 12. that we can better determine. And hopefully, they 13. can help get the word out, because a big part of 14. this is education. You have to educate the owners 15. of those type of devices to help them to understand 16. what's a device, you know, and what the fee -- how 17. the fee will be structured in their situation. 18. MS. O'CONNOR: So if I'm an owner of 19. zip lines, and you were saying that the idea is that 20. the owners will know exactly how much they owe, 21. would your average zip line owner be able to 22. calculate how much they know -- 23. MS. JEFFERSON: That -- 24. MS. O'CONNOR: If they -- they would 25. owe correctly, based on this, then?</p>

<p style="text-align: right;">Page 73</p> <p>1. MS. JEFFERSON: Right. That's our 2. intent. And like I said, with the inspection 3. report -- and Carlene, you can add to that. The 4. goal was for the third-party inspector to tell us, 5. you know, how many times they have to, for example, 6. what is it called, the stand that they jump from? 7. MS. BENNETT: Platform. 8. MS. JEFFERSON: The -- what did you 9. say? 10. MS. BENNETT: Platform. 11. MS. JEFFERSON: The platform. 12. MS. BENNETT: Or tower, rather. 13. MS. JEFFERSON: I'm sorry. So the 14. platform. If you have to enter on a platform a 15. certain number of times, then of course, you know, 16. that's calculated a little differently. But we have 17. to take a look at that. This is just the beginning 18. of it. I'm sure we'll have issues like that. And 19. we would have to address those before it's 20. finalized. That's a good point. That is an 21. excellent point. Thank you. 22. CHAIRMAN FOX: Taking -- go ahead. 23. MR. RADER: No, I was going to say, 24. just looking through this briefly, I find three that 25. if you go by the new fee schedule, they're actually</p>	<p style="text-align: right;">Page 75</p> <p>1. five category. 2. MS. JEFFERSON: Yes. 3. MR. HALE: Under the current -- 4. MS. JEFFERSON: I have that. 5. MR. HALE: That's what the new amount 6. will be, what's the -- 7. CHAIRMAN FOX: The old -- 8. MR. HALE: What is it currently? 9. MS. JEFFERSON: Let's see. It's on 10. the -- let's take a look at the proposed fee 11. structure. It's the -- I think it's the last page 12. on the -- 13. MR. HALE: Right. It would be 61,500 14. on that. What -- how much money do those people in 15. that category generate now? 16. MS. JEFFERSON: Okay. 17. CHAIRMAN FOX: Under this fee 18. structure. 19. MR. HALE: Under this fee structure. 20. MS. JEFFERSON: Okay. Under -- let's 21. see, we had -- well, see, there's no way to 22. really -- is there a way to break that down, because 23. under the current -- well, yeah, we just have to go 24. over and add all those up, and I don't have that 25. information handy.</p>
<p style="text-align: right;">Page 74</p> <p>1. going to be paying a little less, and then I found 2. three or four that are going to be paying 3. substantially more. 4. MS. JEFFERSON: Right. 5. MR. RADER: So obviously, you're 6. going to have some people that are happy and some 7. people, which that's not really my issue, but have 8. you really gone through here to make sure that -- I 9. mean, obviously, but the bottom line is you've 10. increased the fees. But I'm all for an increase. I 11. just want to just make sure that these numbers were 12. kind of where you needed to be. 13. MS. JEFFERSON: Right. And that's 14. why we were looking to you all to provide 15. recommendations. If you have any other 16. recommendations, you want to change the numbers, and 17. still have us to become self-sufficient, that's 18. fine. This is a starting point. We would like to 19. move forward, but we understand that we need to wait 20. if you all feel comfortable on today. If you want 21. to provide information at a later date, then that's 22. what we'll have to do. We'll have to wait. 23. MR. HALE: Would you happen to have 24. the number that under the current schedule, how much 25. revenue is generated by those folks in the one to</p>	<p style="text-align: right;">Page 76</p> <p>1. MR. HALE: Okay. 2. MS. JEFFERSON: I would have to -- 3. MR. HALE: Okay. 4. MS. JEFFERSON: -- go through and add 5. all those up. It's about -- let's see here. It was 6. a 140 companies and they're -- the amounts varied 7. between 175 to what have you, but yeah, I would have 8. to go through, because I don't have that 9. calculated -- 10. MR. HALE: Okay. 11. MS. JEFFERSON: -- today. 12. MR. RADER: Kim, how do you treat the 13. jump houses? Do you include the trampolines or just 14. the climbing walls and the -- everything but the 15. trampolines? 16. MS. JEFFERSON: Well, actually, at 17. this point we've had talk about trampolines. And as 18. far as -- I want to say they're not listed as an 19. exemption under the statue, which means that they 20. would fall under the law. It depends on the number 21. of trampolines. It wouldn't be -- necessarily be 22. the entire -- because some companies have -- 23. MR. RADER: Some of them have eight 24. different trampolines together. Then that would be 25. eight plus a climbing wall plus a little zip line.</p>

<p style="text-align: right;">Page 77</p> <p>1. MS. JEFFERSON: Well, we don't do</p> <p>2. climbing walls. We don't represent --</p> <p>3. MR. RADER: Okay. That's right.</p> <p>4. Yeah.</p> <p>5. MS. JEFFERSON: Uh-huh. We don't do</p> <p>6. climbing walls, but yeah, for each device we would</p> <p>7. have -- we have inspectors. We would really have to</p> <p>8. rely on the third-party inspectors and probably</p> <p>9. include something on the inspection report and just</p> <p>10. ask them specifically, how many devices? Talk with</p> <p>11. the third-party inspectors and ask them. That way,</p> <p>12. it's not on us as the Department or the Unit,</p> <p>13. because I know Carlene doesn't want to determine how</p> <p>14. many zip lines or how many lines or how many</p> <p>15. trampolines. So we're going to have to put that on</p> <p>16. the third-party inspector --</p> <p>17. MR. HALE: But each trampoline in a</p> <p>18. facility is a device.</p> <p>19. MS. JEFFERSON: If it's -- right.</p> <p>20. Some companies have several trampolines.</p> <p>21. MR. HALE: Right.</p> <p>22. MS. JEFFERSON: But each one would be</p> <p>23. a separate device.</p> <p>24. MR. HALE: A separate device.</p> <p>25. MS. JEFFERSON: Uh-huh. Because --</p>	<p style="text-align: right;">Page 79</p> <p>1. you start down the proposed rule road and then</p> <p>2. there's a -- I think the statute says there's 10</p> <p>3. people object to it when it's in the -- being</p> <p>4. published, then you got to start all over and go</p> <p>5. down rulemaking hearing process anyway.</p> <p>6. And with something like increasing</p> <p>7. fees, you know, there's a chance certainly that</p> <p>8. someone from the public is going to comment on</p> <p>9. that. So I would recommend you just go down that</p> <p>10. road if you're going to, you know, change the</p> <p>11. fees.</p> <p>12. If you go to do rulemaking hearing</p> <p>13. process, once it comes back from the Governor's</p> <p>14. Office, you'd have to -- we'd have to set a date</p> <p>15. for the rulemaking hearing, and that has to be at</p> <p>16. least 60 days out, because it has to be posted for</p> <p>17. 45 days at the Secretary of State's Office on the</p> <p>18. Tennessee Register. So you -- then you'd have</p> <p>19. your rulemaking hearing. As I've said, it'd have</p> <p>20. to be some 60 days beyond when you have gotten it</p> <p>21. back from the Governor's Office.</p> <p>22. You have the rulemaking hearing --</p> <p>23. and this is another question on rulemaking</p> <p>24. hearing. You can have one rulemaking hearing at</p> <p>25. one location or you can have one, like, at two or</p>
<p style="text-align: right;">Page 78</p> <p>1. yes, some companies may have two, other companies</p> <p>2. may have ten. So --</p> <p>3. CHAIRMAN FOX: May I ask a question?</p> <p>4. If we -- if this Board said, we'd like to implement</p> <p>5. this fee structure today or we pass it, when does it</p> <p>6. go into effect?</p> <p>7. MS. JEFFERSON: We'd have to change</p> <p>8. the rules. And so we have to work with you all to</p> <p>9. change the rules. And Dan can explain the</p> <p>10. rulemaking process.</p> <p>11. MR. BAILEY: Well, first of all, it</p> <p>12. would have to be the -- you'd have -- I'd have to</p> <p>13. create a -- what's called a red line version of the</p> <p>14. rule, which shows what's being struck out, what's</p> <p>15. being added in, and then submit that to the</p> <p>16. Governor's Office for their review and approval.</p> <p>17. And then if they approve it, then it</p> <p>18. comes back to us and a decision that needs to be</p> <p>19. made is there's two avenues that you can go down</p> <p>20. on the rulemaking process. You can go what's</p> <p>21. called proposed rulemaking and then there's</p> <p>22. rulemaking hearing rulemaking. And if you think</p> <p>23. there's going to be comments from the public about</p> <p>24. the rule you're changing, then the best thing to</p> <p>25. do is go rulemaking hearing process, because if</p>	<p style="text-align: right;">Page 80</p> <p>1. three -- you know, two or three. If you want to</p> <p>2. do east, west, and middle, then, you know, we</p> <p>3. could do that. But all of those decisions have to</p> <p>4. be made.</p> <p>5. But after the rulemaking hearing is</p> <p>6. complete, then we have to respond to all the</p> <p>7. comments that are made, and then once that's done,</p> <p>8. we would then submit it to the Attorney General's</p> <p>9. Office for their review and approval. And once</p> <p>10. they approve it, sometimes that, you know, takes a</p> <p>11. few weeks before they do their thing. Then they</p> <p>12. would send it back if they approve it and then we</p> <p>13. would have to submit it to the -- three signed</p> <p>14. originals to the Secretary of State's Office along</p> <p>15. with the red lined version and a CD.</p> <p>16. And then once it's filed with</p> <p>17. Secretary of State's Office, typically, the rule</p> <p>18. will become effective 90 days later. Okay? So --</p> <p>19. you know, so it's not going to happen tomorrow.</p> <p>20. It's going to be -- even if --</p> <p>21. MR. RADER: Middle of 2017.</p> <p>22. MR. BAILEY: Even if it's approved</p> <p>23. and we start working on it tomorrow, it would --</p> <p>24. it'd be 2017 sometime before it would actually be</p> <p>25. effective.</p>

<p style="text-align: right;">Page 81</p> <p>1. CHAIRMAN FOX: So if this Board 2. waited and waited until September -- 3. MR. BAILEY: And one other thing, if 4. I may interrupt. 5. CHAIRMAN FOX: I'm sorry. 6. MR. BAILEY: We would have had to 7. have gotten it filed with the Secretary of State's 8. office at least 90 days prior to July 1 of 2017 9. before it could be effective. Because if you -- if 10. it's filed where the effective date comes after 11. July 1, which starts a new fiscal year, then it 12. cannot be effective until the following July 1. So 13. you'd have to get it filed by around -- before April 14. if it was going to take effect by July 1 of 2017. 15. CHAIRMAN FOX: Okay. So backing this 16. out, what I think what I heard you say, if we waited 17. until September the 13th and massaged what we have 18. here and looked at this, it really won't make a lot 19. of difference. Is that a fair statement? 20. MR. BAILEY: I think that's a fair 21. statement. Sure. 22. CHAIRMAN FOX: So that we have a 23. better grasp and understanding. Because this is the 24. first time that we had seen the proposed -- new 25. proposed fees and how they were going to be</p>	<p style="text-align: right;">Page 83</p> <p>1. MS. O'CONNOR: But if I'm 2. understanding this correctly, if we review this in 3. September, massage it out, we still should be in 4. good shape, in theory, of getting this in before 5. '17, '18 budget year, correct? 6. MR. BAILEY: I believe so. Yes. 7. MS. O'CONNOR: Okay. So from this 8. meeting to the next meeting, with that deadline in 9. mind, and that as I understand it really is our true 10. deadline of getting this into effect for admin 11. review, we should be okay. 12. MR. BAILEY: Yes. 13. MS. O'CONNOR: Thank you. 14. CHAIRMAN FOX: May I ask another 15. question? Would September 13th be sufficient time 16. to hire some of those safety consultants? 17. MS. JEFFERSON: If they've been 18. approved by the Department of Human Resources. 19. Right. It's as soon as we have permission, then 20. we'll be proceeding with the green light, but we 21. can't do anything until we hear back from them. 22. CHAIRMAN FOX: But based upon your 23. knowledge -- inner working of the government, would 24. you say that's a fair estimate; that September the 25. 13th, we would have permission to hire someone?</p>
<p style="text-align: right;">Page 82</p> <p>1. administered. 2. MR. BAILEY: Correct. 3. CHAIRMAN FOX: And so really and 4. truly, it won't have any effect. Will this affect 5. the budget, Ms. Jefferson? 6. MS. JEFFERSON: It won't affect the 7. budget. 8. CHAIRMAN FOX: Okay. 9. MS. JEFFERSON: Well, it could affect 10. the program if we didn't -- you know, there's a 11. sense of urgency. And this isn't the first time, 12. you know, we've talked about proposed fees. And 13. like I said, I know we kind of got caught up before, 14. because we were talking about inspectors. But over 15. a year ago, I talked about the proposed fees. 16. And I -- there's a sense of urgency, 17. because if we end up with no money to fund the 18. program, we're back in the same position that 19. we're in now. So that's the sense of urgency. We 20. would like to get this done as soon as possible. 21. MR. RADER: But you're guaranteed the 22. 489 for two more years. 23. MS. JEFFERSON: For two years. 24. Uh-huh. 25. CHAIRMAN FOX: Okay.</p>	<p style="text-align: right;">Page 84</p> <p>1. MS. JEFFERSON: We'll have to -- I 2. hate to set myself up for a statement that I can't 3. back up. It just depends, because we're just one 4. state department within the entire state, and so 5. they have others. I don't know what's pending prior 6. to us. I really don't know. So I'd rather just say 7. I don't know than give you all inaccurate 8. information. 9. CHAIRMAN FOX: Okay. That's 10. acceptable. All right. So what's the pleasure of 11. the Board on the fee structure? 12. MR. HALE: I make a motion that we 13. place it on the agenda for September the 13th. 14. MR. RADER: I'll second it. 15. CHAIRMAN FOX: I have a motion and a 16. second. Any discussion? All in favor of the 17. motion, let it be known by saying "aye". 18. MS. O'CONNOR: Aye. 19. MR. RADER: Aye. 20. MR. MOORE: Aye. 21. MR. HALE: Aye. 22. MR. MOORER: Aye. 23. CHAIRMAN FOX: All opposed by like 24. sign. Thank you all very much anything else on 25. that?</p>

<p style="text-align: right;">Page 85</p> <p>1. MS. JEFFERSON: No. Thank you.</p> <p>2. MR. HALE: I just have one question.</p> <p>3. Would it -- and I agree with your thought process</p> <p>4. that we need to go with the hearing route and that</p> <p>5. certainly is the way to go, because if you're</p> <p>6. doubling people's fees, somebody's going to come</p> <p>7. down here and jump up and down.</p> <p>8. MR. BAILEY: Yeah.</p> <p>9. MS. JEFFERSON: Yes.</p> <p>10. MR. HALE: So we may as well let</p> <p>11. them -- we may as well set the process in motion to</p> <p>12. allow for that time. You said that we could carry</p> <p>13. that to three locations or other locations if we</p> <p>14. chose to. If we, say, for instance, said we want to</p> <p>15. also allow a hearing in East Tennessee where a</p> <p>16. lion's share of those one to five folks are, is</p> <p>17. there then a requirement that it has to be in the</p> <p>18. other grand division, as well.</p> <p>19. MR. BAILEY: No.</p> <p>20. MR. HALE: Okay.</p> <p>21. CHAIRMAN FOX: I'll tell you now, my</p> <p>22. position is we tell the world, we put it out in all</p> <p>23. the places that we need to. And I don't know that</p> <p>24. we wouldn't send these folks that we have, the</p> <p>25. addresses, that we send them -- if we have e-mails</p>	<p style="text-align: right;">Page 87</p> <p>1. opt-in -- e-mail opt-in and I have a list of all of</p> <p>2. them. Just like when we have a board meeting and I</p> <p>3. send an e-mail blast to everyone letting them</p> <p>4. know --</p> <p>5. MR. MOORER: Okay. Okay.</p> <p>6. MS. BENNETT: -- where and when the</p> <p>7. meeting's going to be. So yeah, that -- I do</p> <p>8. have --</p> <p>9. MR. MOORER: So the same process, we</p> <p>10. could make sure, like Robbie said, they understand</p> <p>11. that change is on the way.</p> <p>12. MS. BENNETT: Well, we can let them</p> <p>13. know, you know, the topic and where the meeting's</p> <p>14. going to be if they would like to participate.</p> <p>15. MR. MOORER: Okay.</p> <p>16. CHAIRMAN FOX: Very good. And with</p> <p>17. that being said, will you communicate with us how</p> <p>18. many that have been notified and/or responded? Is</p> <p>19. that possible? I mean, I know, like, when I send an</p> <p>20. e-mail, I ask for a kickback on it to tell me how</p> <p>21. many people received the message. Is that possible?</p> <p>22. MS. BENNETT: It could be. I don't</p> <p>23. know. Typically, I don't have them respond back to</p> <p>24. me. It's more of a matter of fact, here's the topic</p> <p>25. and here -- because I get enough of them that e-mail</p>
<p style="text-align: right;">Page 86</p> <p>1. or mailing addresses, send them a letter. Let them</p> <p>2. know. They're in this with us. And let them know</p> <p>3. that there's a proposed fee structure change coming</p> <p>4. up. I think we need to communicate with them. I --</p> <p>5. they're a part of this deal.</p> <p>6. MS. JEFFERSON: Exactly.</p> <p>7. MR. HALE: And I think that a fee</p> <p>8. change is inevitable, and folks are just going to</p> <p>9. have to prepare for that. I think the way we</p> <p>10. institute it may still need some massaging, but I</p> <p>11. think it's obvious that a fee structure change is</p> <p>12. inevitable.</p> <p>13. MR. RADER: Well, based on your</p> <p>14. numbers, though, some of these people will be happy,</p> <p>15. because their fee will go down.</p> <p>16. MR. HALE: Yeah. Yeah. There's</p> <p>17. going to be some folks that are going to be happy,</p> <p>18. because their prices are going to --</p> <p>19. MR. RADER: I hate to take it away</p> <p>20. but --</p> <p>21. MR. HALE: There's also --</p> <p>22. MR. MOORER: Yeah. All these people</p> <p>23. will be contacted by e-mail?</p> <p>24. MS. BENNETT: The majority of them.</p> <p>25. When they turn in their permit packet, there's an</p>	<p style="text-align: right;">Page 88</p> <p>1. me back that say, please take me off your list, you</p> <p>2. know, because they signed up and then they no longer</p> <p>3. want to be on the list. And then I have a majority</p> <p>4. of them that kick back, because the e-mail's no</p> <p>5. longer valid. But to get 250 plus e-mails back,</p> <p>6. it's kind of overload for me.</p> <p>7. CHAIRMAN FOX: I was just trying</p> <p>8. to -- I'm not cheap, but I am inexpensive, and I'd</p> <p>9. rather not use the postage if we don't have to. I'm</p> <p>10. trying to save the State a little money. And if we</p> <p>11. could just e-mail them and just make sure that they</p> <p>12. received it in some fashion, that's all I meant.</p> <p>13. MS. BENNETT: Okay.</p> <p>14. CHAIRMAN FOX: And if you say, hey,</p> <p>15. these people did, I'm good.</p> <p>16. MS. BENNETT: Oh. I can provide you</p> <p>17. with the list of who I e-mail for sure.</p> <p>18. CHAIRMAN FOX: Okay.</p> <p>19. MR. MOORE: You know, who's received</p> <p>20. it. That won't be a problem.</p> <p>21. CHAIRMAN FOX: Very good.</p> <p>22. MR. MOORE: But answering 250 with my</p> <p>23. schedule, it's a little bit of a problem.</p> <p>24. CHAIRMAN FOX: Okay. I understand.</p> <p>25. All right. Anything else on this topic.</p>

<p style="text-align: right;">Page 89</p> <p>1. Mr. Bailey, did we meet your expectations?</p> <p>2. MR. BAILEY: Yes, sir.</p> <p>3. CHAIRMAN FOX: All right. Thank you</p> <p>4. very much. Mr. Barker, you're back up and I</p> <p>5. apologize.</p> <p>6. MR. BARKER: Okay.</p> <p>7. CHAIRMAN FOX: That was my fault.</p> <p>8. MR. BARKER: No trauma.</p> <p>9. CHAIRMAN FOX: I should have caught</p> <p>10. it or asked for that proposal, but I did not, and I</p> <p>11. apologize to you, sir.</p> <p>12. MR. BARKER: I want to -- do want to</p> <p>13. say something quickly about the last argued --</p> <p>14. you're speaking of. A zip line course that's</p> <p>15. getting charged for one device is absurd. All</p> <p>16. right? And this is coming from someone in the</p> <p>17. industry. If I got eight zip lines out there and</p> <p>18. you're charging me \$500 for my permit, I'm dancing</p> <p>19. all the way to the bank. All right.</p> <p>20. Whereas, if you're charging -- and</p> <p>21. we -- and it's something that Dr. Jordan is going</p> <p>22. to talk in a couple minutes. If you're charging</p> <p>23. Boy Scouts as an amusement device when they're</p> <p>24. actually an educational operation because they</p> <p>25. have one zip line, that much makes no sense.</p>	<p style="text-align: right;">Page 91</p> <p>1. adventure parks where you have 80 elements up there</p> <p>2. and you're going to say, that's one device. So</p> <p>3. you're going to have to look at those aspects,</p> <p>4. because that's where your real revenue is. Aerial</p> <p>5. adventure park at 80 elements. If you're saying</p> <p>6. each course within there, the green one is one</p> <p>7. device, the blue one's one, too. That's going to</p> <p>8. help your revenue increases. That's what's going to</p> <p>9. help your -- and with the revenue they have coming</p> <p>10. in, that's affordable to them. So just a brief</p> <p>11. thing on that. So I'm sorry about that.</p> <p>12. So back to -- I'm not going to go</p> <p>13. through the first part of the introduction again,</p> <p>14. but the only part I am going to get into because I</p> <p>15. feel it's something very important for the safety</p> <p>16. committee. I have been involved in investigating</p> <p>17. accidents within this industry and for OSHA, for</p> <p>18. fall production, forensic investigation for OSHA</p> <p>19. for federal OSHA and for state OSHA for years.</p> <p>20. And I have assisted with the fatality in Michigan</p> <p>21. that occurred to an 80-year-old man. I assisted</p> <p>22. somewhat with the Tennessee OSHA situation down</p> <p>23. here a while and helping them to identify what the</p> <p>24. situation was and what led to this thing and how</p> <p>25. it could have been addressed.</p>
<p style="text-align: right;">Page 90</p> <p>1. Massachusetts made that statement statefully at</p> <p>2. their legislation. They put out general listings</p> <p>3. and said, everyone's going to have to have</p> <p>4. permits, everyone's going to have to have this,</p> <p>5. and they put it out there as law and all their</p> <p>6. board heads went ballistic, because every single</p> <p>7. high school that had a course and everything else</p> <p>8. suddenly had to get permits. So we're stealing</p> <p>9. from this department to that department and, in</p> <p>10. fact, it's saying -- so you just want to be</p> <p>11. careful when you look at these things.</p> <p>12. Educational things like regular</p> <p>13. challenge courses shouldn't be required to meet</p> <p>14. amusement device requirements, but if you have a</p> <p>15. zip line course with, you know, multiple zip lines</p> <p>16. and so forth, the way New Jersey does it is every</p> <p>17. single zip line from start to finish is considered</p> <p>18. one device. So even if they have two running next</p> <p>19. to each other, they'll still consider that one</p> <p>20. because they're on the same pathway.</p> <p>21. MS. JEFFERSON: Right. But --</p> <p>22. MR. BARKER: So that's one device and</p> <p>23. that one is individually licensed. The next that</p> <p>24. you get onto, individually licensed. So for what --</p> <p>25. you're going to also have to look into the aerial</p>	<p style="text-align: right;">Page 92</p> <p>1. And that's one aspect we go through.</p> <p>2. A thumb note was brought up earlier that I just</p> <p>3. want to hit on real quickly is that you'll have</p> <p>4. inspectors coming out here and I assume that new</p> <p>5. inspectors are going to be all amusement devices</p> <p>6. not just zip lines and aerial adventure parks. Is</p> <p>7. that what this is? All right. For the --</p> <p>8. CHAIRMAN FOX: To answer your</p> <p>9. question, Mr. Barker, our intent --</p> <p>10. MR. BARKER: Yeah.</p> <p>11. CHAIRMAN FOX: -- our understanding</p> <p>12. is that when we get an inspector on the Board --</p> <p>13. MR. BARKER: Uh-huh.</p> <p>14. CHAIRMAN FOX: -- that they would be</p> <p>15. NAARSO or AIMS level one or level two and level</p> <p>16. three certified and furthermore, they'd be A -- at</p> <p>17. least at this juncture today, right now as we speak,</p> <p>18. ACCT certified --</p> <p>19. MR. BARKER: Right.</p> <p>20. CHAIRMAN FOX: -- to be able to go</p> <p>21. out and do any one of those.</p> <p>22. MR. BARKER: And what about PRCA?</p> <p>23. CHAIRMAN FOX: Well, we haven't</p> <p>24. gotten there yet.</p> <p>25. MR. BARKER: Okay. What I want to --</p>

<p style="text-align: right;">Page 93</p> <p>1. CHAIRMAN FOX: That's for this --</p> <p>2. MR. BARKER: What I wanted --</p> <p>3. CHAIRMAN FOX: That's for this Board</p> <p>4. to decide.</p> <p>5. MR. BARKER: Well, the PRCA thing,</p> <p>6. just so you understand, the inspector training</p> <p>7. program for PRCA actually is hands-on; it's four</p> <p>8. days. It's not one day in a classroom, take the</p> <p>9. test the next morning. I went through the ACCT</p> <p>10. certification program. I -- as someone that does</p> <p>11. this stuff, as someone who investigates accidents</p> <p>12. and everything else, I was not overly impressed with</p> <p>13. the program and how the certification came about.</p> <p>14. If the State wishes, now that -- the</p> <p>15. four-day program is roughly about \$1,000. You</p> <p>16. know roughly, for the four-day period. Plus,</p> <p>17. they're their own transportation, blah, blah,</p> <p>18. blah. If the State desires, PRCA will offer you</p> <p>19. the training for the three inspectors at no cost.</p> <p>20. All right? So that'll be up to the state whether</p> <p>21. they want to do that.</p> <p>22. MR. KEIFER: Mike, you're referring</p> <p>23. to their safety consultants, though.</p> <p>24. MR. BARKER: The safety consultants.</p> <p>25. MR. KEIFER: The new people they're</p>	<p style="text-align: right;">Page 95</p> <p>1. the things and -- but we've already been exposed,</p> <p>2. so if I had the disk, I would have done the</p> <p>3. PowerPoint at this point but --</p> <p>4. So I like having to look through this</p> <p>5. in general, but let me just hit -- highlight a</p> <p>6. couple of real fast things here. If you go to</p> <p>7. page eight on there --</p> <p>8. CHAIRMAN FOX: Page eight?</p> <p>9. MR. BARKER: Page eight. That's the</p> <p>10. one that shows the three little pictures up on the</p> <p>11. top. And underneath there, you see a bunch of</p> <p>12. blocks talking about all the different accidents and</p> <p>13. all the different -- or a group of them, not all of</p> <p>14. them. Pardon me. There's only one on here that</p> <p>15. would not have been avoided if they were following</p> <p>16. the ANSI, American National Safety Standard. All</p> <p>17. right?</p> <p>18. When you look up on top, that picture</p> <p>19. on the left of the image is what Wahoo Ziplines</p> <p>20. was using on their things. All right? Going by</p> <p>21. the ACCT standard, the way that's -- the language</p> <p>22. is in the ACCT standard, that's permissible. A</p> <p>23. simple link like that is permissible. Having rope</p> <p>24. wrapped around as a brake system for a zip line</p> <p>25. was permissible. These are nightmarish scenarios,</p>
<p style="text-align: right;">Page 94</p> <p>1. going to hire.</p> <p>2. MR. BARKER: The three safety</p> <p>3. consultants. Yes.</p> <p>4. MR. KEIFER: Gotcha. That's --</p> <p>5. MR. BARKER: Yeah, don't show up --</p> <p>6. MR. KEIFER: That's a good offer.</p> <p>7. MR. BARKER: Don't show up with 50</p> <p>8. inspectors, please. But we'd be willing to do that</p> <p>9. to help get this process going and to make the</p> <p>10. industry safer. I'm honestly tired of going out and</p> <p>11. looking at a spot where an 80-year-old man landed</p> <p>12. and died, because a connector was used that</p> <p>13. shouldn't have been used. It's that simple.</p> <p>14. It's -- I've had too much in my life looking at</p> <p>15. bodies, looking at this and that to want to see any</p> <p>16. more.</p> <p>17. So everybody at one time or another</p> <p>18. has received most of the packets that were handed</p> <p>19. out, the accident sheets, the comparison of the</p> <p>20. standard. But the one thing you haven't seen is</p> <p>21. the PowerPoint thing, and I don't mean this as</p> <p>22. something to the Department because they were</p> <p>23. showing a PowerPoint because I had a great line.</p> <p>24. I was going to come up and say, who wants to be</p> <p>25. exposed to a PowerPoint so we can just go through</p>	<p style="text-align: right;">Page 96</p> <p>1. which is obvious, because we had an employee fall</p> <p>2. and get seriously injured.</p> <p>3. That one in the middle, by the way,</p> <p>4. is -- that's the harness that the man in Michigan</p> <p>5. had on that died. That was his harness, and that</p> <p>6. shows you exactly how that same connector did a</p> <p>7. roll-out and allowed him to drop and get killed.</p> <p>8. The next page there, you see proper</p> <p>9. and clear requirements, that's on page nine,</p> <p>10. proper and clear requirements that meet OSHA</p> <p>11. regulations. And here's the big thing: The</p> <p>12. majority consensus of American Accredited Standard</p> <p>13. Developers. There's two types of standard</p> <p>14. developers in ANSI.</p> <p>15. There's American National Standards,</p> <p>16. which are generalized standards. All right? That</p> <p>17. could be everything from this desk, the rug, to</p> <p>18. amusement devices. It could be any of those.</p> <p>19. ASTM has some standards that are out there. It's</p> <p>20. just ANSI standards, some that are just ASTM</p> <p>21. standards and some that are safety standards.</p> <p>22. Safety standards is a whole different</p> <p>23. category within ANSI. The National Fire</p> <p>24. Protection Association, NFPA, all the life safety</p> <p>25. standards, the stuff that applies to the</p>

<p style="text-align: right;">Page 97</p> <p>1. elevators, to this that and that or -- those are 2. safety standards. American Society of Safety 3. Engineers, the Z359 fall protection standards, 4. those are safety standards. That's a special 5. designation. 6. The PRCA 1.0-.3 is an American 7. National Safety Standard. These are safety 8. standards for this industry, not just a standard. 9. These are actually recognized and designated by 10. ANSI as a safety standard. Big difference there. 11. Really big difference there. It's like saying Joe 12. Blow puts out a standard that says smoke alarms 13. have to be able to do this and blah, blah, blah. 14. That's a general standard. NFPA says that, that's 15. an American National Safety Standard. Different 16. weight. Different weights in the courts. So -- 17. This page nine shows the ACCT 18. standard on the left. It does not cover employee 19. safety requirements. 20. MR. MOORE: Before you go any 21. further -- 22. MR. BARKER: Yes. 23. MR. MOORE: -- you said there was one 24. on this page that would not have been prevented 25. or --</p>	<p style="text-align: right;">Page 99</p> <p>1. onto the device -- the cable grab system he's going 2. to descend on. 3. CHAIRMAN FOX: Which -- 4. MR. BARKER: Yes, sir. 5. CHAIRMAN FOX: Which one of the 6. three? I'm -- 7. MR. BARKER: Oh, that -- no, not in 8. the pictures. He was talking about -- 9. CHAIRMAN FOX: Oh. 10. MR. BARKER: He's talking about the 11. wording. 12. CHAIRMAN FOX: Okay. 13. MR. BARKER: So it's the one that -- 14. where'd it go? I just spotted it, too. 15. MR. RADER: The middle one. 16. MS. BENNETT: Second one. 17. MR. RADER: The middle left. 18. MR. BARKER: On the left. Yeah. The 19. left is employee safety training. So that -- yes, 20. that actually dealt with, you know, safety training 21. and so forth. But it's a thing that would not 22. necessarily be covered by any standard just because 23. the scenario that was involved with it. He was 24. unclipping from this, clipping over into the cable 25. grab system, and so forth. Kind of blew it there.</p>
<p style="text-align: right;">Page 98</p> <p>1. MR. BARKER: Oh. The accident? 2. MR. MOORE: Yeah. 3. MR. BARKER: You're going to make me 4. actually look at it. 5. CHAIRMAN FOX: Just for the record, 6. those pictures are hard to discern. 7. MR. BARKER: I know. I apologize. 8. The printing didn't come out that great. A 9. PowerPoint might have been better. I can actually 10. send you enlargements of the photos, if you want. 11. That -- 12. MR. RADER: Did I dream this? But 13. you came and brought different harnesses. And 14. that -- 15. MR. BARKER: I brought different 16. harnesses -- 17. MR. RADER: Yeah. 18. MR. BARKER: -- and connectors and 19. everything last time to give you an idea of these 20. things. Yes. I did. All right? On that one there 21. the -- oh, the one where it says, employee safety 22. training, employee falls when he unhooked from 23. safety cable on a tower platform, that particular 24. one there, he was unclipping. He only had one 25. connector. He was unclipping from that and clipping</p>	<p style="text-align: right;">Page 100</p> <p>1. All right? 2. So training would be involved. And 3. training does get covered on the American National 4. Standard. That's very specific, but as we all 5. know, any standard's only as good as -- only good 6. if you're following it, basically. All right? 7. On the next page, the right side 8. column is the ANSI safety standard, ANSI/PRCA 9. safety standard, the ANSI Z359, which is ASSE on 10. this. ASTM, ASME, and NFPA all require fall 11. protection strengths of 5,000 pounds. All of 12. them. So these are -- all these American National 13. Safety Standards require that. The ACCT standard, 14. because they want to round off the numbers, bring 15. it down to 22.2 instead of 22.2 -- or 22 16. kilonewtons, which is 4,954 pounds. 17. That doesn't seem like much. I mean, 18. realistically, what's that, 46 pounds? Not much 19. of a difference until you have to go to court. 20. Until you have to answer that the 5,000 pounds 21. required by everybody else in the U.S. you didn't 22. meet. Then you're in deep trouble. So a standard 23. that allows you to go below that is not really an 24. effective standard. It's a defective standard. 25. The next page I wanted to look up was</p>

<p style="text-align: right;">Page 101</p> <p>1. actually -- let me go over here.</p> <p>2. CHAIRMAN FOX: May I ask you a --</p> <p>3. MR. BARKER: Yes.</p> <p>4. CHAIRMAN FOX: -- question, sir? You</p> <p>5. sort of have me at -- I don't know the answer to</p> <p>6. this question. Normally, I do when I ask a</p> <p>7. question.</p> <p>8. MR. BARKER: Fine.</p> <p>9. CHAIRMAN FOX: What does ASTM say</p> <p>10. about that? Are they in kilograms or are they in</p> <p>11. pounds on this particular --</p> <p>12. MR. BARKER: Both.</p> <p>13. CHAIRMAN FOX: -- issue?</p> <p>14. MR. BARKER: Both.</p> <p>15. CHAIRMAN FOX: And what do the</p> <p>16. kilograms say in --</p> <p>17. MR. BARKER: ASTM says 5,000, 22.2.</p> <p>18. The Z359 standards say 5,000, 22.2.</p> <p>19. CHAIRMAN FOX: Does it refer back to</p> <p>20. ASTM on that particular -- does the ANSI law refer</p> <p>21. back to ASTM regarding the kilograms? I can't --</p> <p>22. MR. BARKER: Does it refer back to</p> <p>23. them?</p> <p>24. CHAIRMAN FOX: Yes.</p> <p>25. MR. BARKER: I don't know what you</p>	<p style="text-align: right;">Page 103</p> <p>1. and other ones that actually apply to it. But not</p> <p>2. European. We won't reference the European standards</p> <p>3. on connectors and on life safety protection, because</p> <p>4. those levels are lower than what's required here in</p> <p>5. the U.S. And that's the main reason we don't do it.</p> <p>6. The ACCT standard, when you look at</p> <p>7. the connectors, it just says, 5,000 pounds and has</p> <p>8. that caveat, that 22 kilonewtons, the 4,000 pounds</p> <p>9. is all right. And it references I think it's five</p> <p>10. different standards, one of which is the ANSI Z359</p> <p>11. fall protection codes, the Canadian Z259 fall</p> <p>12. protection codes, two European standards, and one</p> <p>13. OSHA regulation for fixed ladders.</p> <p>14. CHAIRMAN FOX: What are the European</p> <p>15. standards, the TBDIN? What is it?</p> <p>16. MR. BARKER: CEN.</p> <p>17. CHAIRMAN FOX: Okay.</p> <p>18. MR. BARKER: CEN Standards. So I</p> <p>19. mean, you know, so the British standards are</p> <p>20. basically the same as European standards. But it's</p> <p>21. European Ropes Course Association who came up with</p> <p>22. it, but it's the European standards. The problem</p> <p>23. with the European standards is they don't meet U.S.</p> <p>24. requirements.</p> <p>25. One of the things within the ACCT</p>
<p style="text-align: right;">Page 102</p> <p>1. mean by refer back. Are you talking about</p> <p>2. referencing the other standard?</p> <p>3. CHAIRMAN FOX: Yes.</p> <p>4. MR. BARKER: Some of these reference</p> <p>5. the other standards back and forth, yes.</p> <p>6. CHAIRMAN FOX: Okay.</p> <p>7. MR. BARKER: All right? And yes,</p> <p>8. that's permissible, but the way these -- the way</p> <p>9. that all these standards on that side are written is</p> <p>10. that -- I'll give you an example; let's say a</p> <p>11. connector. Actually, that's in here. But I'll give</p> <p>12. you an example. The connector, the safety</p> <p>13. connectors, every one of these safety standards on</p> <p>14. the right side says auto-locking, minimum of two</p> <p>15. actions to release to open this --</p> <p>16. CHAIRMAN FOX: Right.</p> <p>17. MR. BARKER: -- connector. Every</p> <p>18. single one. They'll also reference. Like, ASTM</p> <p>19. will reference the ANSI Z359 to give you more, you</p> <p>20. know, fall protection codes, to give you more</p> <p>21. specificity. The PRCA standard will reference the</p> <p>22. NFPA, they give you that same information; this is</p> <p>23. what you need to use. But they'll also reference</p> <p>24. NFPA and the ANSI Z359 and the Canadian 259, which</p> <p>25. is the same exact standard, just adopted by Canada</p>	<p style="text-align: right;">Page 104</p> <p>1. standard that's a real, real giant concern for me</p> <p>2. and for people like me that do this stuff is that,</p> <p>3. they're stating that because they're not</p> <p>4. addressing employees, they're addressing only</p> <p>5. patrons, that they can use lower strengths. Well,</p> <p>6. fall protection in the U.S. is fall protection in</p> <p>7. the U.S. If your grandson's up there or my</p> <p>8. granddaughter or anybody else is up here and</p> <p>9. they're going to fall and I have a staff member</p> <p>10. next to them and that staff members requires 5,000</p> <p>11. pounds, why shouldn't my granddaughter or grandson</p> <p>12. have 5,000 pounds? Why should it be less? We</p> <p>13. should have that same number for both groups.</p> <p>14. The ACCT standard's currently</p> <p>15. allowing 3,375-pound lanyards. 3,070 -- that</p> <p>16. sounds like a lot. It sounds like it would hold</p> <p>17. you, definitely. But the problem is the reason</p> <p>18. that all these other standard developers came up</p> <p>19. with 5,000 is -- first of all, it's OSHA</p> <p>20. regulation, U.S. regulation, and also, testing</p> <p>21. here in the U.S. says with the forces that might</p> <p>22. be involved in a fall and so forth, that's what's</p> <p>23. needed is 5,000 pounds per person. So ACCT says</p> <p>24. 3,375 pounds.</p> <p>25. By trying to invent a new fall</p>

<p style="text-align: right;">Page 105</p> <p>1. protection level here in the U.S., personal -- I</p> <p>2. think it's personal fall systems or whatever</p> <p>3. they're calling it, personal safety system, that</p> <p>4. 3,375 pounds doesn't meet the U.S. requirement for</p> <p>5. non-destructive proof testing of lanyards. Proof</p> <p>6. testing of lanyards here in the U.S. and all these</p> <p>7. different standards says 3,600-pound force is</p> <p>8. applied to this without causing failure. If I</p> <p>9. apply 3,600 pounds worth of force to a 3,375-pound</p> <p>10. lanyard, what's going to happen? The lanyard's</p> <p>11. going to break. It can't even meet the assessment</p> <p>12. level. It can't meet the non-destructive proof</p> <p>13. testing.</p> <p>14. Manufacturers do non-destructive</p> <p>15. proof testing every few piece of equipment they</p> <p>16. produce and then they sell that piece to you.</p> <p>17. It's non-destructive. That means it's still good,</p> <p>18. it's still usable. If we use the 300 -- 3,375</p> <p>19. pounds and we tested it at 3,600 and for some</p> <p>20. reason it actually made it through and they hand</p> <p>21. it off to you, boy, are you in trouble. That</p> <p>22. thing's ready to go any second. So there's just</p> <p>23. some really, really serious issues with this</p> <p>24. stuff.</p> <p>25. So anyways, you go -- as you go</p>	<p style="text-align: right;">Page 107</p> <p>1. exactly this type of stuff. Courses that were</p> <p>2. inspected by ACCT certified inspectors who are</p> <p>3. doing nothing wrong, they're inspecting to the</p> <p>4. ACCT standard. And the ACCT standard says that's</p> <p>5. okay. Did the inspector do anything wrong? No.</p> <p>6. The problem is we need to give these</p> <p>7. inspectors and the operators a standard that tells</p> <p>8. them what's right to use. What's the right thing</p> <p>9. to use? Not just a general thing saying, well,</p> <p>10. use anything from any one of these standards.</p> <p>11. Worse than that, the way that language is in the</p> <p>12. ACCT standard, it actually says you can use</p> <p>13. connectors of this strength and any one of these</p> <p>14. standards.</p> <p>15. If you were an operator getting ready</p> <p>16. to build a course tomorrow and you looked at this</p> <p>17. and you want to take it seriously, you want to</p> <p>18. follow it, you would now have to buy those</p> <p>19. different standards to see which carabiner you can</p> <p>20. use. The cost of those different standards all</p> <p>21. total for those five standards is around 2,400</p> <p>22. bucks. So for each piece of equipment, you're</p> <p>23. going to have to spend another two, \$3,000 just to</p> <p>24. get those standards and look at it. For any --</p> <p>25. with ASTM, the PRCA, NFPA standards all give you</p>
<p style="text-align: right;">Page 106</p> <p>1. through this presentation here, you're going to</p> <p>2. see that it actually goes through and starts</p> <p>3. hitting various things. The next page, page 13,</p> <p>4. you'll see these photos here that -- this is the</p> <p>5. connector page, and this is where the ACCT</p> <p>6. standard references, connectors can meet the</p> <p>7. European standard 12275 for connectors, which</p> <p>8. means every one of these photos that's here, if I</p> <p>9. don't know better and I'm building a course or I'm</p> <p>10. operating a course, I can say, well, I'm using</p> <p>11. that standard that -- it says you can use the</p> <p>12. standard, I can now connect people to any one of</p> <p>13. those things.</p> <p>14. And every single one of those, with</p> <p>15. the exception of one, is susceptible to roll-out</p> <p>16. and failures. Every single one. They're</p> <p>17. basically for rock climbing. This standard is for</p> <p>18. rock climbing connectors. It's not for this</p> <p>19. stuff. So allowing that to be referenced in</p> <p>20. there -- and people make the mistake. Very</p> <p>21. possible.</p> <p>22. Not just very possible, in the last</p> <p>23. nine months now or ten months now, I have helped</p> <p>24. assist with two serious injury investigations for</p> <p>25. roll-outs and one fatality for roll-out from</p>	<p style="text-align: right;">Page 108</p> <p>1. the information right there so you don't have to</p> <p>2. look any place else. So that's --</p> <p>3. MR. RADER: So it's --</p> <p>4. MR. BARKER: -- pretty important.</p> <p>5. Yes.</p> <p>6. MR. RADER: From my understanding as</p> <p>7. a board member, is this department recognizing the</p> <p>8. ACCT standard? Is that on the books as the law?</p> <p>9. MR. BARKER: That's on the books</p> <p>10. right now. Yes.</p> <p>11. MS. JEFFERSON: Not the standard.</p> <p>12. ACCT is an approved certifying agency just like with</p> <p>13. NAARSO and AIMS.</p> <p>14. MR. RADER: Okay.</p> <p>15. MS. JEFFERSON: But as far as a</p> <p>16. standard, the only that we recognize currently is</p> <p>17. ASTM.</p> <p>18. MR. BARKER: That's the only --</p> <p>19. MR. RADER: Okay.</p> <p>20. MR. BARKER: -- one. Okay. I</p> <p>21. thought the ACCT standard was being recognized.</p> <p>22. MS. JEFFERSON: No, sir.</p> <p>23. MR. BARKER: All right. Because I</p> <p>24. know we had a situation here where a course that was</p> <p>25. being developed recently actually met the ASTM</p>

<p style="text-align: right;">Page 109</p> <p>1. requirements and --</p> <p>2. MR. RADER: I mean, I -- well, I'm</p> <p>3. trying to understand from --</p> <p>4. MR. BARKER: -- an ACCT inspector</p> <p>5. came in and failed it.</p> <p>6. MR. RADER: -- your presentation is</p> <p>7. what -- are you proposing to us to change the</p> <p>8. standards in this Department?</p> <p>9. MR. BARKER: I'm proposing that you</p> <p>10. say that these are the standards that need to be</p> <p>11. followed.</p> <p>12. MR. RADER: Okay.</p> <p>13. MR. BARKER: Give information to your</p> <p>14. courses, to your operators, to your public that say</p> <p>15. here's the best thing we can do safety wise for you,</p> <p>16. so operators and builders should all build to this</p> <p>17. standard. Inspectors should inspect to this</p> <p>18. standard.</p> <p>19. If we had inspection going to this</p> <p>20. standard back months ago, we wouldn't have had</p> <p>21. someone fall at Wahoo, we wouldn't have had a</p> <p>22. fatality in another course where a lanyard was not</p> <p>23. rigged in accordance with the manufacturer's specs</p> <p>24. and the person was choked and had a heart attack.</p> <p>25. It wouldn't have happened. This standard -- the</p>	<p style="text-align: right;">Page 111</p> <p>1. CHAIRMAN FOX: Well, I know, but --</p> <p>2. MR. BARKER: Okay.</p> <p>3. CHAIRMAN FOX: -- ASTM has some</p> <p>4. standards on --</p> <p>5. MR. BARKER: Yeah. ASTM has some</p> <p>6. standards -- and yeah.</p> <p>7. CHAIRMAN FOX: Okay. So if they had</p> <p>8. used the ACCT and the ASTM standards --</p> <p>9. MR. BARKER: They could use these</p> <p>10. other connectors. Yes. The ASTM standard is not</p> <p>11. specific on connectors. It's not as loose as ACCT</p> <p>12. is. The ASTM standard will say for those</p> <p>13. connectors, look at the ANSI Z359. So they're</p> <p>14. putting you in the right direction. All right? But</p> <p>15. they're still making you get another standard to</p> <p>16. look at. All right? ASTM doesn't like referencing</p> <p>17. standards other than ASTM standards. I'm a member</p> <p>18. of the ASTM also.</p> <p>19. CHAIRMAN FOX: Me too.</p> <p>20. MR. BARKER: And I'm on one of their</p> <p>21. committees. So, you know, we know that they don't</p> <p>22. like referencing anybody outside of ASTM. We know</p> <p>23. that. The ACCT standard actually referencing these</p> <p>24. European standards stuff is what allowed that simple</p> <p>25. snap link at Wahoo to be utilized there. And that's</p>
<p style="text-align: right;">Page 110</p> <p>1. PRCA standard does not allow you to deviate from</p> <p>2. manufacturer's specs. The ACCT standard does.</p> <p>3. CHAIRMAN FOX: Mr. -- part of this is</p> <p>4. not a challenge, so don't take it as such, but it is</p> <p>5. a straightforward question: How can you</p> <p>6. categorically say that that would not have happened</p> <p>7. had they been on this standard? Explain that to me.</p> <p>8. I'm --</p> <p>9. MR. BARKER: Well, if they were</p> <p>10. following the standard -- all right. So if you were</p> <p>11. following the PRCA safety standard, the life safety</p> <p>12. connectors and all these connectors in those</p> <p>13. situations had to be minimum two separate actions to</p> <p>14. open and auto-locking.</p> <p>15. CHAIRMAN FOX: Okay. So let me</p> <p>16. interrupt you.</p> <p>17. MR. BARKER: Yeah.</p> <p>18. CHAIRMAN FOX: Just a second. So</p> <p>19. you're saying the ACCT standard, based upon ASTM,</p> <p>20. would not have --</p> <p>21. MR. BARKER: Well, it's not based</p> <p>22. on --</p> <p>23. CHAIRMAN FOX: -- required --</p> <p>24. MR. BARKER: It's not based on ASTM</p> <p>25. at all.</p>	<p style="text-align: right;">Page 112</p> <p>1. what led to the roll-out detachment and the man's</p> <p>2. falling.</p> <p>3. CHAIRMAN FOX: Okay.</p> <p>4. MR. BARKER: All right?</p> <p>5. CHAIRMAN FOX: Like I said, I was not</p> <p>6. challenging you.</p> <p>7. MR. BARKER: Yeah. Oh, no, no, no,</p> <p>8. no, no.</p> <p>9. CHAIRMAN FOX: I'm just trying to</p> <p>10. understand.</p> <p>11. MR. BARKER: Yeah. Well, I have no</p> <p>12. problem. Anybody who wants to challenge me, I have</p> <p>13. no problem answering questions.</p> <p>14. CHAIRMAN FOX: That wasn't a</p> <p>15. challenge.</p> <p>16. MR. BARKER: Because I mean -- no,</p> <p>17. but if you did challenge me with something good,</p> <p>18. that means I got to go back and work on things, too.</p> <p>19. MR. FARMER: Is that the biggest</p> <p>20. difference between the two standards is just these</p> <p>21. lanyard hooks?</p> <p>22. MR. BARKER: Well, the lanyards, all</p> <p>23. those connectors. Saying that doesn't have to be</p> <p>24. 5,000 pounds doesn't meet U.S. requirements</p> <p>25. anywhere. All right? Whether it's employee or</p>

<p style="text-align: right;">Page 113</p> <p>1. whatever, saying that your standard only covers</p> <p>2. patrons and not employees is absurd when your</p> <p>3. standard also includes training for employees. So</p> <p>4. you are addressing employees.</p> <p>5. The big problem is if you're getting</p> <p>6. ready to build a course and I come over and I hand</p> <p>7. you the ACCT standard and say, here's the ACCT</p> <p>8. standard; you can build to that, and I walk away,</p> <p>9. are you going to know that that doesn't meet U.S.</p> <p>10. requirements? Are you going to know that it</p> <p>11. should be 5,000 pounds, not 49? Are you going to</p> <p>12. know that this lanyard isn't strong enough to meet</p> <p>13. the basic testing requirements? No. You're going</p> <p>14. to look at this and say, I build to this standard.</p> <p>15. I'm safe.</p> <p>16. The ACCT inspector's going to come in</p> <p>17. and say, I inspected your course to this standard.</p> <p>18. It's safe. Or hopefully, the ACCT inspectors are</p> <p>19. not saying it's safe because as we all know and</p> <p>20. Dan can tell you, you don't want to use that word</p> <p>21. anywhere. We don't say that here in the U.S. But</p> <p>22. you're going to say, okay, it passes. All right?</p> <p>23. So the thing is if you're not helping</p> <p>24. direct these inspectors, the builders, and the</p> <p>25. operators to what standard to work with, we're</p>	<p style="text-align: right;">Page 115</p> <p>1. MR. FARMER: I just don't see to dump</p> <p>2. a whole standard for one device with one -- is that</p> <p>3. the only difference between the two? I don't -- I'm</p> <p>4. just not --</p> <p>5. MR. BARKER: Oh, God, no. No, no.</p> <p>6. If you looked at the two standards --</p> <p>7. MR. FARMER: It's the biggest.</p> <p>8. MR. BARKER: If it -- here's the</p> <p>9. thing --</p> <p>10. MR. FARMER: In your opinion, is it</p> <p>11. the biggest difference?</p> <p>12. MR. BARKER: Here's the thing: And</p> <p>13. most importantly, it's the biggest safety wise. If</p> <p>14. you're allowing people to use lanyards or harnesses</p> <p>15. that don't meet U.S. requirements and something goes</p> <p>16. wrong, somebody screwed up big time.</p> <p>17. MR. FARMER: Okay.</p> <p>18. CHAIRMAN FOX: Mr. Barker, can I ask</p> <p>19. a favor of you?</p> <p>20. MR. BARKER: Yeah.</p> <p>21. CHAIRMAN FOX: Again, I don't know</p> <p>22. that everybody here has read those standards.</p> <p>23. MR. BARKER: Yeah.</p> <p>24. CHAIRMAN FOX: And would it be</p> <p>25. possible for you to furnish Ms. Jefferson a copy of</p>
<p style="text-align: right;">Page 114</p> <p>1. leaving the door open for another Wahoo, another</p> <p>2. hanging, another fatality here, there, and</p> <p>3. everywhere else. We're going to keep leaving that</p> <p>4. door open again and again and again. So saying</p> <p>5. that this is the standard we need to follow for</p> <p>6. these locations is important.</p> <p>7. The ACCT standard for many, many</p> <p>8. years -- and I mean, like I said, I'm a member of</p> <p>9. ACCT, too. I followed the ACCT standard for many,</p> <p>10. many years. When we started developing the new</p> <p>11. ANSI standard, it took the ACCT standard, it took</p> <p>12. the European Ropes Course standards, Australia and</p> <p>13. New Zealand, ASTM, ASSE, ASME, all -- took all</p> <p>14. these standards and brought them all together and</p> <p>15. harmonized them into one so that here's this</p> <p>16. document that helps you address all these things.</p> <p>17. Does the PRCA standard address</p> <p>18. everything? Hell, no. It's possible to address</p> <p>19. everything. Does it guarantee that we're not</p> <p>20. going to have injuries and stuff? Of course not.</p> <p>21. Because Robbie may follow it to the law, you may</p> <p>22. not, Chris. You may sit there and say, well, I</p> <p>23. got this. You know what, I don't have the money</p> <p>24. to get those carabiners right now so I'll just go</p> <p>25. with these ones for now.</p>	<p style="text-align: right;">Page 116</p> <p>1. you all's standards --</p> <p>2. MR. BARKER: Yeah. I think --</p> <p>3. CHAIRMAN FOX: -- and then let her</p> <p>4. distribute that to us.</p> <p>5. MR. BARKER: Yeah. Ms. Jefferson has</p> <p>6. a copy of the ACCT --</p> <p>7. CHAIRMAN FOX: Okay.</p> <p>8. MR. BARKER: -- or PRCA standards.</p> <p>9. CHAIRMAN FOX: And then --</p> <p>10. MR. BARKER: We probably have the</p> <p>11. ACCT/ANSI standards --</p> <p>12. CHAIRMAN FOX: Give us a chance to</p> <p>13. look at it. I would -- I'd be hesitant to adopt it</p> <p>14. without reading it.</p> <p>15. MR. BARKER: Yeah.</p> <p>16. MR. RADER: Me too.</p> <p>17. MR. BARKER: Oh, yeah.</p> <p>18. CHAIRMAN FOX: You know, it's kind of</p> <p>19. like the ASTM standard.</p> <p>20. MR. BARKER: Yeah.</p> <p>21. CHAIRMAN FOX: You know, that's</p> <p>22. really intense reading.</p> <p>23. MR. BARKER: Yeah.</p> <p>24. CHAIRMAN FOX: And I'm sure this will</p> <p>25. be somewhat on the same level.</p>

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1.	MR. BARKER: Yeah.
2.	CHAIRMAN FOX: But I would certainly
3.	like the opportunity to do that --
4.	MR. BARKER: Yeah.
5.	CHAIRMAN FOX: -- before we -- say
6.	yes.
7.	MR. BARKER: Oh, yeah. Yeah. And
8.	I -- that's absolutely fine.
9.	CHAIRMAN FOX: And in addition to
10.	that, if you have the ACCC (verbatim) standard, can
11.	you send that to us as well so that --
12.	MS. JEFFERSON: Yes.
13.	CHAIRMAN FOX: -- there's some form
14.	of comparison so that we have that capability?
15.	MS. JEFFERSON: And I just want to
16.	say, last time we had an ACC (verbatim)
17.	representative here. I'm not sure if an ACCT
18.	representative is here today, but they were actually
19.	making the same type proposal.
20.	CHAIRMAN FOX: They were.
21.	MS. JEFFERSON: And they were hoping
22.	for us to adopt their standards, as well. We have
23.	not adopted ACCT --
24.	MR. BARKER: No, I understand that.
25.	My -- like I said, my concern with all the safety

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1.	stuff I'm related to -- I'm a member of both
2.	associations. The only safety stuff I'm concerned
3.	with is I'm concerned with giving the operators,
4.	giving the inspectors and so forth the best standard
5.	to work from to make people safe.
6.	CHAIRMAN FOX: And sir, that --
7.	MR. BARKER: That's the important
8.	thing.
9.	CHAIRMAN FOX: That's our primary
10.	goal --
11.	MR. BARKER: Yeah. Yeah.
12.	CHAIRMAN FOX: -- is keep the
13.	people --
14.	MR. BARKER: Well, if the ACCT
15.	standard --
16.	CHAIRMAN FOX: -- of the State of
17.	Tennessee --
18.	MR. BARKER: -- was the safest one,
19.	I'd be standing here delivering that, delivering
20.	this about that with no problem at all. In all
21.	honesty, I would.
22.	MS. O'CONNOR: I have a quick
23.	question.
24.	CHAIRMAN FOX: Ms. --
25.	MR. BARKER: Yes.

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1.	CHAIRMAN FOX: Ms. O'Connor has a
2.	question here.
3.	MS. O'CONNOR: My understanding ACCT
4.	is kind of the de facto standard in the industry in
5.	Tennessee. My question is, adopting anything else,
6.	how would that increase, create safety issues while
7.	we're in the midst of a systemic change?
8.	MR. BARKER: Well, adopting a
9.	standard that says you have to use the 5,000-pound
10.	lanyards, that you have to have the safety at the
11.	same level for one of these people, all right? How
12.	does that affect, you know, going in with the new
13.	inspectors and this and that and everything else?
14.	Is it going to create a big upheaval? If people are
15.	actually following fall protection requirements,
16.	it's not a big upheaval at all. If people have been
17.	following a standard that allowed them to go with
18.	things that were below the requirements, will that
19.	affect them? Yes. They're going to have to replace
20.	those things. Yeah. Without a doubt.
21.	But you get to a point where you have
22.	to sit there and say, okay, do we let 20 more
23.	people die around the country because we want to
24.	hold off a couple months? That's what it boils
25.	downs to. It boils down to safety at this point.

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1.	Period.
2.	MS. O'CONNOR: But it -- I guess my
3.	question is, is there a safety risk between changing
4.	from one to another even though it really -- it's
5.	only a change for that particular entity? I'm
6.	looking at confusion. You know, whenever there's a
7.	change in anything --
8.	MR. BARKER: Yes.
9.	MS. O'CONNOR: -- people get --
10.	MR. BARKER: Yeah.
11.	MS. O'CONNOR: -- confused.
12.	MR. BARKER: Yes.
13.	MS. O'CONNOR: And rather than
14.	following a standard that might not be as good, they
15.	just say, oh, well, you know, I'm just confused and
16.	we're not going to do anything.
17.	MR. BARKER: Well --
18.	MS. O'CONNOR: Is that a concern?
19.	Have you seen that at all or is --
20.	MR. BARKER: I don't see that as a
21.	concern if we're using the third-party inspector
22.	system. All right? I'm -- or if the State suddenly
23.	came up with this giant windfall and could hire 50
24.	inspectors and send them out there, I don't see that
25.	as a concern if the inspectors are going out and

<p style="text-align: right;">Page 121</p> <p>1. saying, you need to meet these requirements.</p> <p>2. The PRCA standard actually has</p> <p>3. language in it that says that if you have stuff</p> <p>4. that doesn't meet the standard right now, if it's</p> <p>5. non-critical, if it's non-life support, you have</p> <p>6. two years to make the corrections. So it could</p> <p>7. still be passing for two years so you're not</p> <p>8. burdening them. If it's life-safety critical,</p> <p>9. it's a maximum of one year to make the change,</p> <p>10. because if you don't make that change within a</p> <p>11. year, we could be putting someone's life at risk.</p> <p>12. So it actually allows for that. All right?</p> <p>13. It does not allow for things where</p> <p>14. you could sit there and say, we've been using this</p> <p>15. system on our course for 30 years and never had a</p> <p>16. problem.</p> <p>17. An example is these things called</p> <p>18. strand license. All right? Never had a problem.</p> <p>19. The manufacturer put out an advisory years ago</p> <p>20. that said, these are unsafe, they've got to be off</p> <p>21. all courses right away. We go out, we inspect</p> <p>22. courses, we keep seeing these things all over the</p> <p>23. place. They're still there. And that's because</p> <p>24. the inspectors are letting them ride.</p> <p>25. A lot rides on an inspector. An</p>	<p style="text-align: right;">Page 123</p> <p>1. inspector said it wasn't -- it was failing the</p> <p>2. ACCT standard. He didn't say the ASTM. He said</p> <p>3. it was failing the ACCT standard.</p> <p>4. And the worse part of that is in the</p> <p>5. ACCT standards, it says right up front if you have</p> <p>6. an exclusion from the requirements of the</p> <p>7. standard, if it's stamped and -- you know, stamped</p> <p>8. and designed and stamped by a licensed engineer</p> <p>9. for a -- jurisdiction, that's an exclusion. So he</p> <p>10. actually had the exclusion and the guy was still</p> <p>11. failing him because he didn't know his own</p> <p>12. standard. So that's why it's important to sit</p> <p>13. there and say, these are the standards you have to</p> <p>14. follow. And we've got several states doing this</p> <p>15. already.</p> <p>16. MR. KEIFER: Mike, can I just give</p> <p>17. you a chance to take a breather? Because I want</p> <p>18. to -- if I can -- can I sit here, Board people, and</p> <p>19. just answer Kelly's question, first of all, or give</p> <p>20. you more detail?</p> <p>21. CHAIRMAN FOX: Sir, you'll need to</p> <p>22. stand up and let's not take more than about five</p> <p>23. minutes. We're --</p> <p>24. MR. KEIFER: Ready for a break.</p> <p>25. MR. RADER: Yeah. We're --</p>
<p style="text-align: right;">Page 122</p> <p>1. inspector rides on they have to look, they have to</p> <p>2. understand things. They have to know what they're</p> <p>3. doing. When you mentioned you were fond of ASTM</p> <p>4. standards now, the new -- when a new course was</p> <p>5. being built, ASTM standards say that zip line</p> <p>6. courses and so forth have to be engineered,</p> <p>7. stamped by an engineer and so forth. All right?</p> <p>8. This course was stamped by an</p> <p>9. engineer, was approved by an engineer, and the</p> <p>10. ACCT inspector failed them. I mean, first of all,</p> <p>11. the ACCT inspector came in and said, you have to,</p> <p>12. you know, meet the ASTM components. So he did and</p> <p>13. then failed them because they didn't agree with</p> <p>14. the engineer.</p> <p>15. The inspector had 1,400 hours' worth</p> <p>16. of building experience. When you start breaking</p> <p>17. that down to how much time goes into a normal</p> <p>18. building day, he had maybe three, four months'</p> <p>19. worth of building experience. He's telling a</p> <p>20. builder that built the first zip line course in</p> <p>21. America back in 2002, he's built over 50 since</p> <p>22. then and operates eight courses across the</p> <p>23. country. This is why inspectors have to have the</p> <p>24. right stuff to work with.</p> <p>25. And after -- to your case, that</p>	<p style="text-align: right;">Page 124</p> <p>1. CHAIRMAN FOX: We're ready for a</p> <p>2. break here pretty soon.</p> <p>3. MR. RADER: Yeah. We are.</p> <p>4. MR. KEIFER: Let me just give Kelly's</p> <p>5. question a response, something I wanted to share</p> <p>6. with Mitch, as well, and Chris. So Kelly --</p> <p>7. MR. HALE: You need to identify</p> <p>8. yourself.</p> <p>9. MR. KEIFER: -- you used the term --</p> <p>10. I'm sorry, I'm James from the PRCA, obviously.</p> <p>11. CHAIRMAN FOX: And you are who?</p> <p>12. MR. KEIFER: James Keifer from the</p> <p>13. Board of Directors of the Professional Ropes Course</p> <p>14. Association.</p> <p>15. CHAIRMAN FOX: Okay.</p> <p>16. MR. KEIFER: I'm also on the</p> <p>17. Regulated States Committee, and that's why I wanted</p> <p>18. to sort of address -- give more detail to Kelly's</p> <p>19. question.</p> <p>20. You used the term, aren't they the de</p> <p>21. facto standards? I think that's what you all as a</p> <p>22. board have to decide, because one of my tasks on</p> <p>23. the Regulated States Committee is I get to</p> <p>24. research a lot of different states. New York</p> <p>25. state, Massachusetts. The company I work for,</p>

<p style="text-align: right;">Page 125</p> <p>1. we're licensed vendors. Everybody does it</p> <p>2. different.</p> <p>3. In the state of New York, for</p> <p>4. example, they say you can be of an ACCT -- a</p> <p>5. professional vendor member, but they also say you</p> <p>6. can be a PRCA accredited vendor member, or</p> <p>7. Chairman Fox mentioned NAARSO. They mention</p> <p>8. NAARSO. You can be a NAARSO member or a licensed</p> <p>9. professional engineer.</p> <p>10. I wouldn't say that it's -- that the</p> <p>11. ACCT standards are the de facto ones, because</p> <p>12. every state does it differently. And the state</p> <p>13. that our -- my company that I work for serves</p> <p>14. New York and New England and northeast and</p> <p>15. Massachusetts. They list everybody and they say</p> <p>16. you can pick one of these four. They certainly</p> <p>17. list the PRCA accredited vendor member along with</p> <p>18. ACCT, but they list NAARSO and the others.</p> <p>19. So I think you guys as a board really</p> <p>20. have to decide do -- we certainly wish you would</p> <p>21. take our standards, adopt those exclusively, but</p> <p>22. they could also be with other standards, of</p> <p>23. course, and maybe make your -- let your operators</p> <p>24. decide. Giving them choices would be a nice way</p> <p>25. to do it.</p>	<p style="text-align: right;">Page 127</p> <p>1. right? So this cable has to be able to support that</p> <p>2. amount. All right? So it has to be -- its outdoors</p> <p>3. has to be galvanized or stainless. It does have</p> <p>4. language like that, which all the standards do.</p> <p>5. MR. HALE: Right. Right.</p> <p>6. MR. BARKER: But it doesn't have</p> <p>7. differences in cable size at all. Not in the least.</p> <p>8. That doesn't occur.</p> <p>9. MR. HALE: Uh-huh.</p> <p>10. MR. BARKER: The only differences in</p> <p>11. cable size that you'll see in any of the standards,</p> <p>12. and this goes way back with the standards for this</p> <p>13. industry, is there used to be a general rule within</p> <p>14. the industry that if your zip line was 300 feet or</p> <p>15. more -- or excuse me, 400 feet or more, you were</p> <p>16. stepping up to half inch cable. That was just a</p> <p>17. general rule.</p> <p>18. MR. HALE: Right.</p> <p>19. MR. BARKER: The way the cable</p> <p>20. verbiage is out there for the zip lines and so forth</p> <p>21. is it has to meet a safety factor. And that's --</p> <p>22. those safety factors are based on what's being done</p> <p>23. with aerial tramways and ski lifts and everything</p> <p>24. else. I mean, who has more experience with the</p> <p>25. cables than they do?</p>
<p style="text-align: right;">Page 126</p> <p>1. So I don't know if that answers your</p> <p>2. question but I -- every state does it different.</p> <p>3. And then state by state. You guys as a board have</p> <p>4. to decide which -- what you want to -- how you</p> <p>5. want to -- whose you want to adopt and how you</p> <p>6. want to do that.</p> <p>7. MR. BARKER: I mean, some states are</p> <p>8. adopting multiple standards now and then, saying</p> <p>9. within specific areas of that, they require</p> <p>10. compliance with this particular one. Some states</p> <p>11. are doing that now.</p> <p>12. CHAIRMAN FOX: Okay. Mr. Hale has a</p> <p>13. question.</p> <p>14. MR. HALE: So just to follow up to</p> <p>15. Mr. Farmer's question --</p> <p>16. MR. BARKER: Yeah.</p> <p>17. MR. HALE: -- and statement. There</p> <p>18. is more -- there are more things that would change</p> <p>19. than just a harness and connecting device things if</p> <p>20. you go over -- if you change to this standard. For</p> <p>21. instance, the cable size that courses are built with</p> <p>22. changes. Is that not correct?</p> <p>23. MR. BARKER: No. That's not correct.</p> <p>24. No. That's not correct at all. The cable size in</p> <p>25. the ANSI/PRCA standard's performance based. All</p>	<p style="text-align: right;">Page 128</p> <p>1. So it's being based on those aspects.</p> <p>2. So it's -- basically, we'll come along and say,</p> <p>3. okay, for this size cable, you need to have like a</p> <p>4. five-to-one safety ratio. And ASTM will say this</p> <p>5. on zip line things, too. But there's an allowance</p> <p>6. for three-to-one if it's engineered, if it's done</p> <p>7. by an engineer. All right? So you have an</p> <p>8. engineer stamp that says, three-to-one is</p> <p>9. acceptable here and blah, blah, blah, it's</p> <p>10. acceptable. So it doesn't change that stuff.</p> <p>11. And if you've been following U.S.</p> <p>12. fall protection requirements, it doesn't change</p> <p>13. anything. Whereas, if you follow the other one,</p> <p>14. now you're changing the equipment. Plus, we're</p> <p>15. also basically screwing you as manufacturers. No</p> <p>16. U.S. manufacturers produce stuff at 3,375 pounds.</p> <p>17. It's European manufacturers that do that, because</p> <p>18. they're meeting their requirements. We have</p> <p>19. several manufacturers here in the U.S. that are</p> <p>20. already testing and doing stuff to the 5,000-pound</p> <p>21. requirements across the country and are already</p> <p>22. adopting and stamping -- they are labeling their</p> <p>23. stuff as complying with the PRCA standard to show</p> <p>24. that it meets the U.S. requirements. So --</p> <p>25. CHAIRMAN FOX: Mr. Barker, if you</p>

<p style="text-align: right;">Page 129</p> <p>1. will --</p> <p>2. MR. BARKER: Yeah.</p> <p>3. CHAIRMAN FOX: -- please send</p> <p>4. Ms. Jefferson a copy --</p> <p>5. MR. BARKER: Okay.</p> <p>6. CHAIRMAN FOX: -- of that. Let us</p> <p>7. look at it.</p> <p>8. MR. BARKER: Yeah.</p> <p>9. CHAIRMAN FOX: Based upon the</p> <p>10. questions I'm hearing -- correct me if I'm wrong --</p> <p>11. I don't know that we're ready to make the decision.</p> <p>12. MR. BARKER: No. I know that. Yeah.</p> <p>13. Yeah.</p> <p>14. CHAIRMAN FOX: But we sure would like</p> <p>15. to read them --</p> <p>16. MR. BARKER: Yeah.</p> <p>17. CHAIRMAN FOX: -- just so we can</p> <p>18. understand them.</p> <p>19. MR. BARKER: Yeah.</p> <p>20. CHAIRMAN FOX: If you could do that</p> <p>21. for --</p> <p>22. MR. ANDREWS: Mr. Chairman, I know</p> <p>23. you all need a break. My name's Tom Andrews. I</p> <p>24. made a long journey, as well as some other people</p> <p>25. did today and I -- there's a lot of things I could</p>	<p style="text-align: right;">Page 131</p> <p>1. MR. HALE: Name.</p> <p>2. MR. ANDREWS: Tom Andrews. I'm owner</p> <p>3. of a company called Pro Image Adventures, also known</p> <p>4. as Pro Image and Associates. Been in business for</p> <p>5. about 31 years. I'm also an accredited vendor</p> <p>6. member of the Professional Ropes Course Association.</p> <p>7. And I think I'm the only person here that at one</p> <p>8. time was also what was called at the time a charter</p> <p>9. member now called a PBM of ACCT. I believe that's a</p> <p>10. fact.</p> <p>11. So the point I just want to make is</p> <p>12. not so much to do with a technical aspect of this</p> <p>13. as it does with -- are we giving people choices?</p> <p>14. I heard Jim make that comment and that triggered</p> <p>15. an important thought. And I heard your question</p> <p>16. about, is the only difference such and such? And</p> <p>17. I would say, no.</p> <p>18. And here's a quick example: I have a</p> <p>19. lot of very loyal customers for which I'm very</p> <p>20. appreciative. Most of my business is small. I</p> <p>21. think we're a small but mighty force. I read in</p> <p>22. your minutes as I was getting ready to come to</p> <p>23. this meeting that one of the comments, I believe,</p> <p>24. made by a representative from ACCT is that, you</p> <p>25. know, maybe this is what leads to the de facto</p>
<p style="text-align: right;">Page 130</p> <p>1. be doing but I learned a lot, listening this</p> <p>2. morning. I know you need a break. I'd just like</p> <p>3. less than three minutes after that break to point</p> <p>4. out something that I think is very valuable to know</p> <p>5. that is not merely technical but is a difference</p> <p>6. between how you interpret it, you know, what you're</p> <p>7. going to do as far as recognizing, not recognizing,</p> <p>8. including, excluding, whatever. I think it's very</p> <p>9. near and dear to not just me but maybe some other</p> <p>10. folks here. So if I might have three minutes?</p> <p>11. CHAIRMAN FOX: You got them. Three</p> <p>12. minutes.</p> <p>13. MR. ANDREWS: Thank you very much.</p> <p>14. MR. RADER: You're up.</p> <p>15. CHAIRMAN FOX: You're up.</p> <p>16. MR. ANDREWS: Oh, yeah.</p> <p>17. MR. BARKER: He's giving to you now.</p> <p>18. MR. ANDREWS: If you all need a</p> <p>19. restroom break, I do not want to be the last one</p> <p>20. that's holding you up.</p> <p>21. MR. KEIFER: He says you're up. That</p> <p>22. means you're up.</p> <p>23. MR. ANDREWS: My -- I learned a lot</p> <p>24. coming here today. So --</p> <p>25. MR. RADER: For the record --</p>	<p style="text-align: right;">Page 132</p> <p>1. notion, is that we're large. We've been around</p> <p>2. the longest. We're the greatest number. You</p> <p>3. know, which is sort of, in a way, can sound --</p> <p>4. well, certainly would want to have you guys be,</p> <p>5. you know, the ones that should be recognized.</p> <p>6. My question is, why not recognize</p> <p>7. anybody who's qualified and who has the right to</p> <p>8. do their work and has proven that they can? I</p> <p>9. lost several customers some years ago, because</p> <p>10. they were believing that -- if I'm going to use</p> <p>11. this analogy, that they were kind of drinking that</p> <p>12. water that's, hey, you've got to go with the de</p> <p>13. facto group. You know, the one that's always been</p> <p>14. around. I lost good customers over that.</p> <p>15. It wasn't until they discovered that</p> <p>16. ANSI had recognized -- and please correct me if I</p> <p>17. am stating something incorrect here. But when</p> <p>18. ANSI recognized the Professional Ropes Course</p> <p>19. Association version of the standards two years ago</p> <p>20. in March 2014, that all of a sudden, I had</p> <p>21. credibility again. And in some ways, maybe I had</p> <p>22. more credibility, because I had to go back to</p> <p>23. school, so to speak. And this gentleman right</p> <p>24. behind me, I got to tell you, he's tough as nails.</p> <p>25. So I had to get reviewed a number of times.</p>

<p style="text-align: right;">Page 133</p> <p>1. There's another gentleman back here</p> <p>2. who's also tough as nails. So we're small, but</p> <p>3. when you're fighting from the bottom sometimes, or</p> <p>4. it feels like that, but you know you have</p> <p>5. something that's of quality, why not be able --</p> <p>6. you know, we got rehired. I'm happy to say that</p> <p>7. those customers are hiring me today and we've</p> <p>8. built some wonderful, great structures for a lot</p> <p>9. of great trainings.</p> <p>10. So I'm over three minutes so I</p> <p>11. apologize. I'm a little passionate here, because</p> <p>12. I was afraid I wasn't going to get a chance to say</p> <p>13. this part. My -- I guess my point to you is you</p> <p>14. don't have to read a whole standard to</p> <p>15. recognize -- and I'm not saying don't do that, but</p> <p>16. I'm saying here's a point you can just mull over</p> <p>17. between now and September, and that is, why not at</p> <p>18. least offer inclusivity. Why not, you know, give</p> <p>19. people a chance to make their own decision?</p> <p>20. The problem at the current moment is</p> <p>21. the implied belief that there's only one way;</p> <p>22. there's only one organization you can belong to.</p> <p>23. And those people do -- they have infiltrated lots</p> <p>24. of places. I had -- I can send you something, if</p> <p>25. you'd like, several different somethings from</p>	<p style="text-align: right;">Page 135</p> <p>1. CHAIRMAN FOX: This lady over here,</p> <p>2. she's like me, she don't hear very well.</p> <p>3. MR. GUSTAFSON: I'm Steve Gustafson.</p> <p>4. I'm with EBL and former president of the PRCA. I</p> <p>5. was here in March and met with you.</p> <p>6. CHAIRMAN FOX: Uh-huh.</p> <p>7. MR. GUSTAFSON: And after that</p> <p>8. meeting, I did send you the standards for review.</p> <p>9. And I hear your questions about how can we say a</p> <p>10. standard that we produce can or unequivocally</p> <p>11. prevent an injury? The reality is people are people</p> <p>12. that make mistakes. You try to educate them through</p> <p>13. standards to help prevent those mistakes and errors</p> <p>14. from occurring.</p> <p>15. In the one case about the lanyard,</p> <p>16. Wahoo Ziplines was brought up to Mr. Barker</p> <p>17. specifically. Our standard said that you had to</p> <p>18. have two lanyards. He only had one. If he had</p> <p>19. been following our standards, he would have had a</p> <p>20. backup lanyard on and he wouldn't have fallen.</p> <p>21. That's how you can make those kind of statements.</p> <p>22. But people are people at the end of the day.</p> <p>23. They're going to follow the standard or they're</p> <p>24. not going to follow the standard.</p> <p>25. I also understand you say that this</p>
<p style="text-align: right;">Page 134</p> <p>1. insurance companies who are saying the only people</p> <p>2. you can hire are a PBM from the ACCT. That's not</p> <p>3. fair. That's not the American way, quite</p> <p>4. honestly. And that is what I object to.</p> <p>5. And I want to make sure that</p> <p>6. organizations, camps, schools, colleges, whatever</p> <p>7. that maybe don't have a huge budget can still</p> <p>8. afford to be in business of educating kids and</p> <p>9. doing fun things, not just recreation, although</p> <p>10. that's obviously important, as well. I think</p> <p>11. that's --</p> <p>12. MR. KEIFER: Good. That's good.</p> <p>13. That's good, Tom.</p> <p>14. CHAIRMAN FOX: You did a great job.</p> <p>15. MR. RADER: Good job.</p> <p>16. MR. HALE: Thank you.</p> <p>17. MR. KEIFER: Very good.</p> <p>18. CHAIRMAN FOX: One of the gentlemen</p> <p>19. in the back had your hand up a minute ago. I will</p> <p>20. offer you the opportunity for three minutes.</p> <p>21. MR. GUSTAFSON: Yes, Chairman Fox.</p> <p>22. Steve Gustafson.</p> <p>23. CHAIRMAN FOX: Come around and tell</p> <p>24. us who you are.</p> <p>25. MR. GUSTAFSON: Yes, sir.</p>	<p style="text-align: right;">Page 136</p> <p>1. board doesn't already adopt the ACCT standards.</p> <p>2. You're still under the decision with that</p> <p>3. yourselves. That's not quite true. Because if</p> <p>4. you have to have an ACCT inspector come out and</p> <p>5. inspect your course, they then dictate they're</p> <p>6. going to follow their own ACCT standard. I know</p> <p>7. ma'am you shake your head no, but that's exactly</p> <p>8. what happened to me in Tennessee.</p> <p>9. I overspent \$11,500 for engineering</p> <p>10. the standards that the ACCT third-party required</p> <p>11. me to produce and then ignored at the end of the</p> <p>12. day, and my Tennessee licensed engineer was not</p> <p>13. recognized in this state.</p> <p>14. So you got some systems here to kind</p> <p>15. of figure out. And what I hear from Mr. Andrews</p> <p>16. and Mr. Barker, try to just level the field, get</p> <p>17. one standard. It's already been adopted by ANSI</p> <p>18. two years ago. It's already out there. It</p> <p>19. doesn't follow the European standard. It has</p> <p>20. weaker categories than what we have here in the</p> <p>21. United States. It's already been harmonized with</p> <p>22. NFPA. It's been harmonized with ASTM, ASSE.</p> <p>23. We've harmonized them so all the standards work</p> <p>24. seamlessly together. That's already in the PRCA</p> <p>25. standards.</p>

<p style="text-align: right;">Page 137</p> <p>1. And Carlene, did you not get the</p> <p>2. standard when I sent it back in March?</p> <p>3. MS. BENNETT: I did. Uh-huh.</p> <p>4. MR. GUSTAFSON: Okay. So I -- we</p> <p>5. produced that. I'll be more than happy to forward</p> <p>6. it to you again if you need. But that's what we're</p> <p>7. here to promote, not one association over the other.</p> <p>8. It's a safety standard that we believe is in the</p> <p>9. public's best interest that will mitigate future</p> <p>10. possible injuries. The sooner it's implemented, the</p> <p>11. better. That's what I wanted to add.</p> <p>12. CHAIRMAN FOX: Okay. Thank you very</p> <p>13. much.</p> <p>14. MR. GUSTAFSON: Thank you, sir.</p> <p>15. Thank you.</p> <p>16. MR. RADER: I would like for the</p> <p>17. minutes to reflect, what does this department</p> <p>18. recognize? Is it the ACCT standard?</p> <p>19. MS. JEFFERSON: No. ASTM.</p> <p>20. MR. RADER: That's what this board</p> <p>21. recognizes.</p> <p>22. MS. JEFFERSON: That's what the --</p> <p>23. MR. RADER: Period.</p> <p>24. MS. JEFFERSON: Actually, that's what</p> <p>25. the Department recognizes. ASTM. If the</p>	<p style="text-align: right;">Page 139</p> <p>1. what's going on. Whether you acknowledge another</p> <p>2. standard or not, that's what's happening in the</p> <p>3. field and it's costing money and it's financial</p> <p>4. hardship.</p> <p>5. CHAIRMAN FOX: Okay.</p> <p>6. MR. GUSTAFSON: Thank you for your</p> <p>7. time.</p> <p>8. CHAIRMAN FOX: Anything from the --</p> <p>9. any other comments from the Board on this particular</p> <p>10. topic?</p> <p>11. MR. RADER: Did you have your hand</p> <p>12. up, sir?</p> <p>13. DR. JORDAN: Yes, sir. If I may, I</p> <p>14. have a different perspective, if I could have the</p> <p>15. Chairman's --</p> <p>16. CHAIRMAN FOX: By all means, sir.</p> <p>17. Three minutes.</p> <p>18. DR. JORDAN: I appreciate it.</p> <p>19. MR. KEIFER: Does he get three</p> <p>20. minutes also, Chairman Fox?</p> <p>21. DR. JORDAN: I'll take three minutes</p> <p>22. or less. I'm concise. My name's Scott Jordan. I</p> <p>23. am a professor at Northern Michigan University. I</p> <p>24. have worked in the challenge course industry</p> <p>25. previous -- for the previous 16 years at Oklahoma</p>
<p style="text-align: right;">Page 138</p> <p>1. inspections are doing something different in the</p> <p>2. field, then that's something we have to address.</p> <p>3. Maybe in our inspection reports, we need to include</p> <p>4. something so they can specify. To my knowledge,</p> <p>5. they are specifying what standard they're using, but</p> <p>6. if they're not, then they need to specify. I think</p> <p>7. that would cure the issue unless, you know,</p> <p>8. something else is decided.</p> <p>9. MR. GUSTAFSON: But by default, you</p> <p>10. actually have third-party inspectors who are making</p> <p>11. up their own rules and putting more regulations upon</p> <p>12. us that aren't in -- that aren't already in your</p> <p>13. processes. That's what happened to me.</p> <p>14. MS. JEFFERSON: Well --</p> <p>15. MR. GUSTAFSON: The ACCT inspector</p> <p>16. that you recognize as an ACCT inspector then</p> <p>17. defaulted to their standards that you don't</p> <p>18. recognize and made me jump through all these extra</p> <p>19. hoops, spend all this extra money. In the end, I</p> <p>20. had a licensed engineer from the beginning that you</p> <p>21. do recognize.</p> <p>22. CHAIRMAN FOX: Okay.</p> <p>23. MR. GUSTAFSON: So that was my</p> <p>24. loophole at the time. I'm not here to ask -- that's</p> <p>25. not my platform today. But that is an example of</p>	<p style="text-align: right;">Page 140</p> <p>1. State University as a director of their program. So</p> <p>2. my background is from the challenge course and</p> <p>3. working with young people, developing them into a</p> <p>4. profession.</p> <p>5. So just to briefly state, I started</p> <p>6. using the PRCA standard 10 years ago as an</p> <p>7. educator, because my goal is that young people,</p> <p>8. like Brian Polston here who was one of my students</p> <p>9. and now works in the industry, goes out into an</p> <p>10. industry that respects them as employees and will</p> <p>11. follow safety standards. And that OSHA</p> <p>12. requirement meant a lot to me back then. I'd like</p> <p>13. to think that the students I teach go out into</p> <p>14. safety environments.</p> <p>15. Because this industry's booming right</p> <p>16. now. In Colorado, four -- yeah, \$46 billion going</p> <p>17. into the nature-based industry right now, for</p> <p>18. example. So it's growing and needs to be</p> <p>19. regulated. So I appreciate being the dog wagging</p> <p>20. the tail instead of the latter, because that's a</p> <p>21. fear of mine.</p> <p>22. The other perspective I have comes</p> <p>23. from my educational background, which is leisure,</p> <p>24. which is the umbrella for recreation. And under</p> <p>25. recreation is amusement. And amusement and</p>

<p style="text-align: right;">Page 141</p> <p>1. spectatorship are one aspect of that recreation 2. point. But recreation has greater value into it, 3. not to devalue spectatorship or amusement. It's 4. great. It has value in our community. 5. But you have other users that have 6. similar devices that are falling under your 7. category of amusement. A lot of those are 8. non-profits like the Boy Scouts or a lot of camp 9. organizations with separate outcomes. And because 10. they have separate outcomes, they have different 11. fee structures. 12. And a lot of them don't even charge 13. fees for use. It goes in as a camp fee or 14. something like that. So a user's fee is paid 15. through a general fund, which may be \$35, and it's 16. including meals and overnight stays and counselors 17. and stuff like that. 18. They're being counseled for 19. behavioral development, leadership development, 20. group development, and outcomes such as that, 21. which are extremely different from amusement. 22. I understand regulation, but I would 23. ask that as you guys start to develop your 24. processes that you consider those differences that 25. there -- these devices are used much differently</p>	<p style="text-align: right;">Page 143</p> <p>1. City by ANSI, because of these conflicts, to see if 2. it's going to be withdrawn as an American National 3. Standard, just so you're aware of that. So when 4. you're looking through all of them, don't just jump 5. September 13th until you've found out, is it 6. withdrawn or not, just to be on the -- you know, to 7. be on the safe side. 8. CHAIRMAN FOX: Well, it'll be a 9. good -- 10. MR. BARKER: Yeah. 11. CHAIRMAN FOX: -- read anyway. 12. MR. BARKER: And it'll be a marvelous 13. read. You're going to sleep so well when you read 14. these two side by side. You're going to sleep 15. fabulous. I know I've been sleeping on them for 16. years. So -- 17. CHAIRMAN FOX: It'll be a good read, 18. sir. 19. MR. BARKER: Thank you for the time. 20. CHAIRMAN FOX: Thank you. 21. MR. BARKER: I appreciate it. 22. MR. KEIFER: Thank you for your time. 23. CHAIRMAN FOX: Okay. Item Nine, New 24. Business, there is no new business. Number 10, 25. discussion item, rule update on LULA lifts.</p>
<p style="text-align: right;">Page 142</p> <p>1. by different types of people. So I appreciate it. 2. CHAIRMAN FOX: Thank you, sir. 3. MR. RADER: Thank you, sir. 4. CHAIRMAN FOX: All right. Anything 5. else from the Board? Can we agree, then, to -- if 6. we get the two standards -- 7. MS. JEFFERSON: Right. And I believe 8. Carlene has both of those. 9. CHAIRMAN FOX: Okay. 10. MS. JEFFERSON: And if you'll just 11. send those directly to the Chairman? 12. CHAIRMAN FOX: You can scan those and 13. send them to us or however you have them. 14. MS. BENNETT: Uh-huh. 15. CHAIRMAN FOX: If you'll send those 16. to us, let us look and then we would make a decision 17. one way or the other on the September 13th, give a 18. little -- put ourselves on a deadline. 19. MR. RADER: Uh-huh. 20. CHAIRMAN FOX: Anybody have an 21. objection to that? 22. MR. BARKER: I hate to say -- I need 23. to bring up one thing really quickly. The current 24. ACCT American National Standard is under review or 25. is going to be under review next week in New York</p>	<p style="text-align: right;">Page 144</p> <p>1. MR. FARMER: We're waiting the 90 2. days. I think we're two months into it, so we 3. should be about a month away from being finalized. 4. CHAIRMAN FOX: So on the 26th, the 5. 27th of August, we should be finished. 6. MR. FARMER: I'm not going to lie to 7. you, I don't know the exact date. I can get it 8. upstairs. I can forward it to you guys. 9. CHAIRMAN FOX: Okay. Have you all -- 10. has the State adopted the 2012 IBC? 11. MR. FARMER: Each city is different. 12. Metro Nashville has adopted 2012. We go by local 13. jurisdiction, which is county or city wide. So we 14. have a standard -- we're under ASME 1 for elevator 15. codes; that all the related codes to it, as far as, 16. like, the IBC, the NEC is local jurisdiction 17. supersedes us, so we having to go by what they 18. apply. 19. CHAIRMAN FOX: Okay. But does the -- 20. the State has to adopt some type of IBC rule. 21. MR. FARMER: Yes. And they are 22. currently under the 2012. 23. CHAIRMAN FOX: 2012. 24. MR. FARMER: Yes. 25. CHAIRMAN FOX: Are they going to 2015</p>

<p style="text-align: right;">Page 145</p> <p>1. any time in the near future?</p> <p>2. MR. FARMER: I think they go every</p> <p>3. nine years. They update.</p> <p>4. CHAIRMAN FOX: Okay.</p> <p>5. MR. FARMER: Every nine years, they</p> <p>6. update to the latest and greatest.</p> <p>7. CHAIRMAN FOX: Okay.</p> <p>8. MR. FARMER: They don't go every</p> <p>9. three years and readopt. They wait nine years to</p> <p>10. adopt all the way up.</p> <p>11. CHAIRMAN FOX: All right.</p> <p>12. MR. FARMER: And I don't know why</p> <p>13. they do that but they do.</p> <p>14. CHAIRMAN FOX: Okay. Any other</p> <p>15. questions on the LULA? Are we good with that?</p> <p>16. Okay. Item Number 11, Announcement of the Next</p> <p>17. Meeting. The next regularly scheduled meeting of</p> <p>18. the Elevator and Amusement Device Safety Board</p> <p>19. meeting will be held in the first floor TOSHA</p> <p>20. Hearing Room at 9:00 a.m., Tuesday, September the</p> <p>21. 13th at the State of Tennessee Department of Labor</p> <p>22. and Workforce Development, located at 220 French</p> <p>23. Landing Drive, Nashville, Tennessee.</p> <p>24. Do I have a motion for adjourn -- or</p> <p>25. anything else that needs to come before the Board?</p>	<p style="text-align: right;">Page 147</p> <p>1. CHAIRMAN FOX: And when I came on, I</p> <p>2. knew about things that went round and round, but I</p> <p>3. didn't know about those things that went up and</p> <p>4. down. And he taught us about those, and I think</p> <p>5. that was --</p> <p>6. MR. HALE: Absolutely.</p> <p>7. CHAIRMAN FOX: I think that was, you</p> <p>8. know, a great experience for us. So -- and again,</p> <p>9. truly hate to see him go.</p> <p>10. MS. BENNETT: And just to let you</p> <p>11. know that we have requested a certificate from the</p> <p>12. Governor's Office for his 10 years' service on the</p> <p>13. Board.</p> <p>14. MS. O'CONNOR: That's nice.</p> <p>15. CHAIRMAN FOX: Great. Do we have</p> <p>16. someone coming on the Board or do we announce that</p> <p>17. yet?</p> <p>18. MS. JEFFERSON: No.</p> <p>19. MR. FARMER: Do you want --</p> <p>20. MS. JEFFERSON: Do you have the</p> <p>21. person's name? I think we have --</p> <p>22. MR. FARMER: That's Paul Fisher.</p> <p>23. He's an elevator representative here.</p> <p>24. CHAIRMAN FOX: Okay.</p> <p>25. MR. FARMER: He -- I think he's a</p>
<p style="text-align: right;">Page 146</p> <p>1. Yes, ma'am?</p> <p>2. MS. BENNETT: Perry Burch.</p> <p>3. CHAIRMAN FOX: Perry Burch. Perry</p> <p>4. Burch is rotating off the Board. And from my</p> <p>5. perspective, I've served with him for several years.</p> <p>6. An outstanding individual, a man of integrity, great</p> <p>7. character, just a fine human being. As my momma</p> <p>8. used to say, he's just a good man. And he is</p> <p>9. rotating off and quite frankly, I hate to see him</p> <p>10. go. I don't know whether it's health issues or what</p> <p>11. it is, but he is moving off the Board, and I don't</p> <p>12. know if any of the rest of you want to comment or</p> <p>13. not.</p> <p>14. MR. HALE: Well, I'll just say</p> <p>15. that --</p> <p>16. MR. RADER: Good man.</p> <p>17. MR. HALE: Go ahead.</p> <p>18. MR. RADER: Good man. Enjoyed</p> <p>19. working with him.</p> <p>20. CHAIRMAN FOX: Absolutely.</p> <p>21. MR. HALE: And I learned a lot. When</p> <p>22. I came on this board, I have learned a tremendous</p> <p>23. amount from him. He's been an asset to me to learn</p> <p>24. the inner workings of elevators, and this board, as</p> <p>25. well.</p>	<p style="text-align: right;">Page 148</p> <p>1. superintendent is his title of United Elevator</p> <p>2. Company. So he's pretty all over the State of</p> <p>3. Tennessee. So he's very knowledgeable.</p> <p>4. CHAIRMAN FOX: Okay. Well, we'll</p> <p>5. certainly welcome him to the Board. All right.</p> <p>6. Next meeting, September 13th, 9:00 o'clock Central</p> <p>7. Standard Time. Do I have a motion for adjournment?</p> <p>8. MR. HALE: So moved.</p> <p>9. MR. RADER: Seconded.</p> <p>10. CHAIRMAN FOX: We are adjourned.</p> <p>11. END OF PROCEEDINGS.</p> <p>12.</p> <p>13.</p> <p>14.</p> <p>15.</p> <p>16.</p> <p>17.</p> <p>18.</p> <p>19.</p> <p>20.</p> <p>21.</p> <p>22.</p> <p>23.</p> <p>24.</p> <p>25.</p>

1. CERTIFICATE

2.

3. STATE OF TENNESSEE)

4. COUNTY OF WILLIAMSON)

5.

6.

7. I, Dominique A. Dubois LCR# 686,

8. Notary Public and Court Reporter, do hereby

9. certify that I have recorded to the best of my
10. skill and ability by machine shorthand all the
11. proceedings in the foregoing transcript, and that
12. said transcript is a true, accurate, and complete
13. transcript to the best of my ability.

14. I further certify that I am not an
15. attorney or counsel of any of the parties, nor a
16. relative or employee of any attorney or counsel
17. connected with the action, nor financially
18. interested in the action.

19. SIGNED this 12th day of August, 2016.

20.

21.

22. _____
Dominique A. Dubois, LCR# 686
Notary Public State at Large
23. My commission expires: 8/9/2018
24.
25.

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